



A LEGAL FRAMEWORK OF HEALTHCARE INSURANCE MARKET AND COVERAGE REQUIREMENTS AND ITS APPLICATION IN CONSUMER PROTECTION DURING POST COVID-19 ERA-AN ANALYSIS

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ABSTRACT

India is a country where most of its people are uninsured in which only 18% of the population in the urban area and 14% in rural areas are covered in this. Even though many schemes like Ayushman Bharat have come, but the gap was never covered. Even in life insurances, the pandemic has led to an increase in the death claim, putting pressure on the life insurers. Furthermore, it has led to decline in business premiums due to unstable economy and the mobility restriction made it hard to onboard more customers. In this paper we will be exploring the regulatory responses to the covid 19 pandemic and legal framework for consumer protection along with economic and market implications and the future of the health insurance regulations. The COVID-19 outbreak has caused some unforeseen changes in the world-wide medical system by requiring regulatory agencies to take immediate actions to provide crucial health services. The study focuses on a retrospective look on the changes in the health insurance sector in India as a result of the pandemic, with questions addressing the legal issues of post COVID-19 health insurance coverage standard and consumer protection. The study will provide insight into the regulatory changes during the pandemic and its repercussions on various stakeholders like policyholders, insurers, and healthcare providers.

Keywords: Health Insurance, Regulatory Changes, Consumer Protection, COVID-19, IRDAI, Pandemic Policies, Policyholder Rights

Chapter 1: INTRODUCTION

Covid-19 pandemic has led to the major infection and death of millions of people across the globe. The highest number of positive cases being reported in U.S and then comes India. Such situation has made us question our public health policy, thousands of people dying day by day affected all sectors of our country, mainly our healthcare system. We know that along with all the infectious diseases spreading, national health expenditure has grown tremendously over the past decades. The GDP has gone beyond 4% level which is far beyond the BRICS market.



The Government of India has taken many initiatives to develop the health sector like the Ayushman Bharat scheme which was introduced to increase the health insurance coverage, and digitalized the Central Government Health Scheme (CGHS), RastriyaArogya Nidhi (RSAN), Pradhan Mantri Jan Arogya Yojana (PM-JAY) through NHA'S Its platform has made the whole process paperless making the healthcare services transparent and quick for the needy people. The hospital's application, submission of claims, sanctioning by the CGHS teams and release of payment has been made online. The RAN scheme has provided around 15 lakh financial assistance to poor patients suffering from cancer, rare diseases treatment in Government hospitals. And the eligibility criteria depend upon the BPL threshold limit of the particular state.

Other than several schemes the Government of India has introduced new insurance covers. Many of the insurance companies are banks that carry their insurance business by joining joint ventures with corporation or a local bank engaged in the same business. While the companies enter the industry through merger and acquisition of an existing insurance company. Recently the government has tried to develop the sector by increasing the foreign direct investment in the insurance sector from 26% to 74% through Indian Insurance (Foreign investment) amendment Rules, 2021. The Government has also taken a step forward by legally recognizing agents, brokers, surveyors and loss assessors, third party administrators and bancassurers. And in order to reduce the risk, the only national reinsurer at present is he GIC Re. and there are 12 other private reinsurer including the foreign reinsurance branches. Since we only have one reinsurer many of the insurance companies go for reinsurer based out of Europe, Singapore, London and other Gulf countries.

Health insurance covers a portion or all of a person's medical bills, spreading the risk among other individuals. The insurer evaluates the overall risk of health care spending and the health system for the risk pool, allowing them to create a regular financing structure like monthly premiums. A tax on wages is levied to obtain revenue for the health care benefits specified in the insurance agreement. The benefit is managed by a central organisation, such as a government agency, corporation, or non-profit.

A health insurance policy is an agreement signed by an insurer (that includes insurance company or the government) and a policyholder who is an individual or their sponsor (such as a business or a community organisation). The agreement can be renewed monthly or yearly or lifelong if it is a private insurance. And the coverage of the agreement has to be written in a booklet, that will be served as insurance for the future in case the insurer is private: and if it is a public insurance the clauses will be mentioned in a national health policy.



In India both the individual and family insurance coverages are available. As of 2011, health insurance is one of the growing sectors in India with 3.9% of its gross domestic product was spend. In this health insurance accounts for 5-10%, employers accounts for around 9% while personal expenditure has accounted for around 82%. And this was one of the lowest among the BRICS (Brazil, Russia, India, China and South Africa) economies according to WHO (World Health Organization). In the year of 2016, the NSSO has released the report “Key Indicators of Social Consumption in India: Health” based on survey conducted in the year 2014, which indicated that around 20% of the population are only covered by the health insurance, in which only 18% of the urban population (government funded 12%) and 14% of the rural population (government funded 13%) are covered under health insurance. The health insurance has grown significantly in 1986 after its launching due to liberalization of the economy and general awareness. And by 2010 around 25% of Indian population was covered under any type of health insurance as induced by the records of World Bank.

Indian health insurance mainly covers hospital bills and treatments in India. Doctor’s visit and other out- of- hospital services are often not reimbursed. Early Indian health insurance policies were known as Mediclaim Policies. In 2000, the Indian Government allowed private companies to sell health insurance, resulting in the introduction of many new insurance plan such as the family coverage, supplemental plans, critical illness policies, and daily hospital cash payments. Currently, the health insurance coverage is minimal, at roughly 10%. A major cause for this limited coverage is a lack of competition. The IRDAI, which regulates insurance, might set up regional zones to increase competition, similar to how the telecom companies operate.

The Indian insurance market was regulated by the insurance Act, 1938 until the IRDA Act comes into effect setting up IRDA as the regulatory authority for insurance business in India which ceased the GIC as the holding company for the four public sector insurers. But even today many of the processing like registration and renewal of the insurer, regulations of solvency margin, reinsurance and investment by insurance companies are governed by the Insurance Act of 1938.

The Insurance Laws (Amendment) Bill, 2022 which paved the way for the insurer to take composite license through which the insurer can take both general and health insurance through a single entity. This amendment focusses mainly on promoting the interest of the policy holder, enhancing the financial security by improving the return and facilitating the entry of more players into the insurance market. This can lead to economic growth and increasing the employment rate in the country.



The regulatory bodies had a very significant role, particularly through the Insurance Regulatory and Development Authority of India (IRDAI), in protecting the interest of policyholders.

The judiciary ensured that there was accountability among the insurers. Public insurers, being directly accountable to the Ministry of Finance, were again under government oversight, thus strengthening the stability of the sector. The Indian insurance industry had witnessed challenging times during the course of pandemic COVID-19 have come across. Amidst such challenges the solvency ratio of Indian insurance companies has continued to remain just above post-apocalyptic levels. As increased demand for insurance products spurred by the pandemic drove insurers to rely on portals and apps, many of them found that the adoption rate for digital technologies had accelerated. Simultaneously, it increased the idea in people's minds that they needed insurance in general and health insurance in specific.

1.2 RESEARCH PROBLEM

The key topic addressed by this study is the adequacy of the regulatory changes implemented in India's healthcare insurance market following COVID-19 outbreak. Is assess how well these reforms provide comprehensive healthcare coverage and protect the consumer rights. Despite several measures aimed at strengthening the system, there are still significant gaps in the policy implementation and consumer comprehension, which may result in the uneven access to necessary healthcare services and inadequate financial protection for consumers.

1.3 RESEARCH QUESTIONS

1. What were the major regulatory changes implemented in India's healthcare insurance market following the COVID-19 pandemic?
2. In what ways have these changes influenced healthcare coverage requirements and consumer protection initiatives?
3. What are the legal implications of these regulatory changes for healthcare providers, insurers, and consumers?
4. How do India's regulatory frameworks compare with those in other jurisdictions in response to the pandemic?
5. Are the regulatory changes effective in providing sufficient healthcare coverage and safeguarding consumer rights?



6. What ongoing gaps or challenges exist within the current regulatory framework, and which areas require further research or policy enhancement?

1.4 OBJECTIVE OF THE PAPER

The objective of this study is to determine the changes brought about by the COVID-19 breakout in terms of the legislation controlling India's healthcare insurance industry, as well as how these changes affect healthcare services and consumer protection. The rest of the objective in points is as follows:

1. To identify the specific regulatory changes implemented by the ITRDAI, and other relevant entities.
2. To identify and assess the legal consequences of these developments for various parties.
3. To compare India's regulatory structure to that of USA.
4. To assess the success of these adjustment in terms of the breadth of health coverage they provide
5. To identify gaps in the current regulatory framework and make recommendations for future research and policy reforms.

1.5 RESEARCH HYPOTHESIS

1. Regulatory reforms post-COVID-19 have improved healthcare coverage and consumer protection in India.
2. Increased consumer awareness of new regulations correlates positively with health insurance adoption and satisfaction.
3. Enhanced digital platforms and telemedicine services reduce accessibility barriers, particularly in rural areas.
4. Comprehensive mental health coverage improves policyholder retention and uptake rates.
5. Countries with mandatory universal health insurance models demonstrate superior accessibility and consumer outcomes compared to voluntary systems.

1.6 RESEARCH GAP

- Limited Data on Rural Impact



- Insufficient studies examine how regulatory changes have influenced rural populations, where insurance penetration and access to healthcare remain low.
- Telemedicine and other digital innovations require targeted evaluation to determine their effectiveness in addressing rural healthcare challenges.
- **Mental Health Coverage**
 - Despite policy-level inclusion, there is limited research on the integration of mental health services into health insurance frameworks.
 - Studies on the adequacy, uptake, and consumer experiences of mental health coverage are scarce, particularly in rural and underserved areas.
- **Technology Adoption**
 - While digital platforms have improved accessibility in urban regions, their implementation in rural and underserved areas requires further investigation.
 - The role of digital innovations like telemedicine in enhancing claims processing and consumer satisfaction remains underexplored.
- **Consumer Awareness**
 - Few studies assess the effectiveness of awareness campaigns in increasing public understanding and adoption of health insurance policies.
 - Gaps in consumer knowledge about regulatory updates and rights hinder the uptake of newly introduced insurance schemes.
- **Comparative Analyses**
 - Existing research lacks comprehensive comparisons of India's voluntary health insurance system with global best practices, especially in developing nations.
 - Evaluating India's regulatory framework against countries with mandatory systems, like the U.S. or European models, could provide actionable insights for improvement.
- **Sustainability of Pandemic-Specific Policies**
 - Limited research investigates the long-term viability of policies like Corona Kavach, particularly their financial and operational sustainability during future health crises.



1.7 SIGNIFICANCE OF THE STUDY

Regulatory reforms and consumer protection in healthcare insurance are critical for a number of reasons. Firstly, they ensure that healthcare services remain accessible and inexpensive for everybody, particularly during emergencies like as COVID-19. Regulatory revisions can close gaps in present policies, such as integration telemedicine services and covering pandemic-related therapies, ensuring that insurance remains relevant and effective in tackling modern health concerns. Consumer protection measures defend policyholder's rights by ensuring openness, fair pricing and prompt dispute resolution, therefore preserving faith in the healthcare insurance market. Finally, these regulatory measures and safeguards guarantees that the healthcare insurance market is fair, robust, and responsive to the consumer's demand. In short, the initiative has resulted in a health insurance market to be resilient, fair to its stakeholders and responsive to the population.

1.8 SCHEME OF CHAPTERISATION

Chapter 1: Introduction

The first chapter establishes the groundwork for the research by investigating the significant disruptions produced by the COVID-19 epidemic and its consequences for the healthcare insurance industry. It discusses the study topic, aims, and questions, emphasising the need of examining post-COVID-19 regulatory changes. This chapter also addresses research gaps, such as unbalanced distribution of healthcare services and poor consumer protection measures, emphasising the study's importance in resolving these issues.

Chapter 2 : Literature Review

This chapter presents a detailed assessment of current literature on healthcare insurance legislation, with an emphasis on the development of regulations in India and throughout the world. It critically reviews pre-pandemic policy, noting important inadequacies and issues that were compounded by the COVID-19 pandemic. Furthermore, it outlines areas that require additional investigation, such as mental health coverage, telemedicine acceptance, and consumer rights.

Chapter 3: Historical Perspective of Health Insurance in India

This chapter examines the historical evolution of health insurance in India, from early social security plans to the current regulatory structure. It delves into major events such as the creation of the



Employees State Insurance Scheme (ESIS), the emergence of private health insurance, and the critical function IRDAI. The story places the current difficulties within the historical framework of policy development.

Chapter 4: Research Methodology

The methodology chapter describes the study strategy and procedures used to meet the research objectives. It combines qualitative and quantitative methodologies, emphasising the use of surveys, case studies, and policy analysis. The chapter also examines data gathering methods, which include primary data from people and secondary data from legal documents and scholarly papers, to ensure an effective analysis basis in fact.

Chapter 5: Regulatory Responses to the COVID-19 Pandemic

This chapter explores the immediate regulatory responses to the epidemic. It examines policies such as the rollout of the Corona Kavach and Corona Rakshak plans, telemedicine coverage, and premium installment options. The chapter assesses the effectiveness of these interventions in meeting the population's healthcare demands amid an unprecedented crisis.

Chapter 6: Insurance for All by 2024

This chapter discusses the government's ambition for universal health insurance, with an emphasis on measures under the Ayushman Bharat plan. It addresses IRDAI's regulatory initiatives to improve inclusion, such as decreased bureaucracy, enhanced transparency, and policyholder incentives. The chapter also assesses the difficulty of meeting this lofty aim within the time frame specified.

Chapter 7: Legal Framework for Consumer Protection

This chapter examines the legislative structures in place to safeguard consumer rights in the healthcare insurance industry. It examines the Consumer Protection Act of 2019 and the responsibilities of the CCPA. The chapter also discusses the issues that policyholders encounter, such as confusing policy wording and abusive claim settlement methods, as well as the legal remedies accessible.

Chapter 8: Regulations of Health Insurance

This chapter looks at IRDAI's involvement in regulating health insurance in India, with an emphasis on regulations involving third-party administrators, claim settlements, and insurer responsibility. It also explores court interventions that have altered regulatory processes and protected consumer rights, highlighting the dynamic interaction of law and policy.



Chapter 9: Comparative Analysis

This chapter compares the health insurance systems in India and the United States. It assesses critical factors such as universal coverage, policyholder protection, healthcare quality, and mental health integration. The chapter discusses lessons that India may take from the United States, notably the Affordable Care Act and its emphasis on standardising healthcare access.

Chapter 10: Judicial Approach: Case Laws

This chapter examines landmark judicial decisions that have influenced the healthcare insurance sector in India. It includes cases such as *Jacob Punnen vs. United India Insurance Co. Ltd.* and *Manmohan Nanda vs. United India Assurance Co. Ltd.*, discussing their implications for policyholder rights and insurer accountability. The chapter underscores the judiciary's role in bridging gaps in the regulatory framework.

Chapter 11: Conclusion

The last chapter summarises the study's principal conclusions, emphasising the success and limits of the regulatory responses to the a pandemic. It makes policy proposals for improving healthcare coverage, strengthening consumer protection, and incorporating mental health and preventative care into insurance systems. The chapter also recommends potential study areas, emphasising the need of balancing accessibility, cost, and quality of treatment.

Chapter 12: References

This chapter contains all of the sources used throughout the study, which include legal papers, scholarly publications, government reports, and case laws. It ensures academic rigour and reputation by including a full bibliography for additional research.

Chapter 13: Appendices

The last chapter contains supplemental materials, such as survey questions and data analysis visualisations, to enhance the research findings. These appendices add transparency and depth to the study, improving the overall analysis.

Chapter 2: LITERATURE REVIEW

Overview of health insurance regulations pre-covid-19 and their evolution: Before Covid-19, the health insurance regulations kept the coverage topped up and affordable and at the same time, the



regulator kept the insurer solvent but with a fair part of that on the consumer side. For example, in Indi, the Insurance Regulatory and Development Authority of India (IRDAI) determined guidelines related to policy terms, premium rates, grievance redressal mechanisms, etc. The pandemic, however required a reassessment of these rules in light of new health care needs.

As Bhageerathy et al. As (2021) point out, this involved the IRDAI introducing initiatives to increase coverage such as compulsory coverage of COVID-19 treatment and telemedicine services. There are significant implications for the treatment of Covid-19 in the critical care unit and, importantly, for the hospital-based healthcare system: Analysis of key regulatory changes made in response to COVID-19 Across the globe, post COVID-19, regulatory bodies have made innumerable changes to healthcare insurance. IRDAI made the Corona Kavach and Corona Rakshak policies mandatory in India, offering specific cover against COVID-19-related expenses.

Analysis of Specific Regulatory Changes Post-COVID-19: Following the Covid-19 pandemic, the regulatory authorities throughout the world made several modifications to healthcare insurance. In the country, the IRDAI made it necessary for all insurers to establish Corona Kavach and Corona Rakshak plans that cover COVID-19 related charges in a certain manner. The consumer protection act safeguards were also reinforced with increased clarity in terms and faster claim resolution.

Comparison of Regulatory Frameworks across jurisdiction: A comparative examination of regulatory frameworks reveals distinct strategies for addressing the impact of COVID-19 on healthcare insurance. While India and numerous developing countries concentrated on expanding fundamental coverage and facilitating access to COVID-19 treatments, developed nations like USA, implemented more extensive reforms, such as premium subsidies and extended unemployment benefits to maintain health insurance coverage. This diversity in regulatory responses underscores the importance of tailored policies that account for specific national contexts and healthcare needs.

Evaluation of the regulatory changes: The extent to which regulatory changes have effectively guaranteed appropriate healthcare coverage and consumer protection in the aftermath of covid-19 is still being investigated. Initial finding indicates that, while these improvements have generally increased access to healthcare services and financial stability, their implementation has been patchy. For example, while the implementation of telemedicine service has been largely praised, issues with technology access and treatment quality continue, particularly in rural regions.

Identification of Gaps and challenges: Despite tremendous progress, some restrictions and obstacles remain within the present regulatory system. There are few through studies that analyse the long-term



viability of regulatory reforms that have been adopted. Furthermore, concerns such as uneven availability of healthcare services, technological limitation to telemedicine and differing degrees of consumer understanding of their rights continue to be key challenges. Future study should focus on assessing the term impacts of regulatory changes and proposing ways to solve the observed deficiencies.

Chapter 3: HISTORY OF HEALTH INSURANCE IN INDIA

Although India's health insurance sector is still in its earliest stages, it has profound historical origins in early methods of pooling of resources for disaster relief, as stated in Manu Vedas, Yagnavalkya and Kautilya. The formal notion of health insurance first appeared in 1694 with Hugh Chamberlin's proposal, but it wasn't until 19th century that practicality began with the introduction of "Accident Assurances". The transition from disability insurance in the mid-to-late twentieth century, together with ongoing improvement and innovations, has shaped India's current health insurance. Notably, throughout the last fifty years, there have been significant development in this sector.

After Independence India focused on developing primary healthcare, which resulted in significant improvement. Health insurance was introduced in 1948 as part of the Employees State Insurance Scheme (ESIS), a social security welfare project for blue-collar workers in the organised sector. ESIS covers healthcare through its own network of dispensaries and hospitals, covering both outpatient (OPD) and Inpatient (IPD) charges, as well as compensation for lost wages and other medical expenses. In ESIS, where the investment is made by both the employee and employer, is still operating today. Furthermore, the Central Government Health Scheme (CGHS) was founded in 1954 to provide comprehensive healthcare to central government workers and their families.¹

The Evolution of the General Insurance Corporation (GIC) created India's first Mediclaim policy in 1986, which is a voluntary health insurance system that helped standardise health insurance terms and conditions. It provided coverage for hospitalisation but excluded pre-existing diseases, pregnancy, delivery and HIV/AIDS. The policy compensated expenses through third-party²

Chapter 4: RESEARCH METHODOLOGY

¹Care Health Insurance (Aug 2020) "Story Behind Health Insurance Evolution in India", Care Health Insurance, available at <https://www.careinsurance.com/blog/health-insurance-articles/story-behind-health-insurance-evolution-in-india> (Last visited on 30th September)

²IRDAI, "Evolution of Insurance" available at: <https://irdai.gov.in/evolution-of-insurance> (accessed on 2nd October 2024)



4.1 Research Design

This research paper has been written in a mixed-methods approach, integrating qualitative and quantitative methods to analyse the regulatory transformation in India's healthcare insurance sector after COVID-19. The qualitative analysis focuses on the review of legal frameworks, policy guidelines, and case laws, while the quantitative segments involve surveys to gather empirical data from diverse stakeholders.

4.2 Data collection methods:

Primary Data collection

1. Survey: A structured questionnaire will target healthcare providers, students, workers and consumers. The survey focuses on demographic data, awareness of health insurance regulations, and perceptions regarding the impact of COVID-19 on insurance policies and consumer rights.

Secondary Data Collection:

1. Document Analysis: Key regulatory documents, policy briefs and guidelines, such as IRDAI circulars and Consumer Protection Act updates, will be examined to track changes and identify gaps in implementation.
2. Literature Review: Relevant academic and industry literature on post Covid-19 healthcare regulations will provide contextual understanding and highlight global practices.

Chapter 5: REGULATORY RESPONES TO THE COVID- 19 PANDEMIC

The Government has taken many measures as a preparedness against future pandemic

5.1 Financial Assistance

The IDSP (Integrated Disease Surveillance Program)³ as a financial assistance program by the Central Government to the state and union territories of the country. This program aims to improving diseases surveillance and first reporting of the cases.

Rs. 3619.82 crore has been granted under the PM-ABHIM financial year 2021-2024 budget.

³IRDAI, available at : <https://idsp.mohfw.gov.in/index4.php?lang=1&level=0&linkid=313&lid=1592> (accessed on 2nd October 2024)



They have a special trained Rapid Responsible Team (RRT) for a decentralized response system. Around 150 research and diagnostic laboratories has been established at both the district and state to strengthen laboratories.

5.2 Scientific Preparedness plan – One health approach⁴

(a) Launch of Covid-19 Health Insurance Plan ⁵

There are two main policies launched by the IRDAI () during the pandemic namely Corona Rakshak and Corona Kavach Policy. This policy covered medical expenses occurred due to covid- 19. They covered the cost of consumable unlike the regular health insurance policies such as the PEP Kits and other materials used for the coronavirus treatment. They also cover the expenses occurred to commodities. The IRDAI has permitted the insurer to take plans for a period of 3.5/6.5/9.5 months that can be renewed till March 31, 2021. Furthermore, it permits the policyholder to transfer their corona-kavach coverage to any other indemnity-based health plan.

5.3 Availability of telemedicine coverage⁶

The health insurance providers started to cover medical expenses occur due to telemedicine. Telecommunication refers when a medical consultant is done through phone, chat messaging, video conversation, or where the physical presence of the patient is not required. Usually, the regular health insurance does not cover the telemedical expenses, however during the Covid-19 the pandemic has led to lockdowns and social distancing that had resulted in the growth of telemedicine. The IRDAI covered the cost of telemedicine under the cost of doctor consultation.

5.4 Pay Premium on Installment

When covid-19 hit the world, the major sector which was affected was the economy, many of the employees were laid off causing mass unemployment and people losing their primary source of income. For protecting the interest of the policyholder, the IRDAI has introduced the premium on

⁴National One Health Mission. Available at: <https://www.psa.gov.in/innerPage/psa-initiatives-covid/national-one-health-mission/4053/4053> (accessed on 2nd October 2024)

⁵Acko, "Covid-19 Insurance Policy" available at: <https://www.acko.com/health-insurance/covid-19-insurance/> (accessed on 2nd October 2024)

⁶Anulekha Roy, "Health Insurance :Telemedicine, online consultation to be covered amid COVID-19. How it works" available at: <https://www.livemint.com/insurance/news/health-insurance-policy-new-rule-telemedicine-to-be-covered-amid-covid-19-11602334679149.html> (accessed on 4th October 2024)



installment. This system helps the customer to choose a high amount of insurance that suits their needs at time of distress and making the plans affordable.⁷

5.5 Online Health Insurance Plan

Since the social isolation and lockdown made it impossible for the insurer to onboard more customers. The IRDAI opted a system of online health insurance purchase to convenience and simplify the purchasing of insurance. So that the customer can easily avail the insurance online. And to comply with the KYC papers, video verification was used for necessary documentation.⁸

Chapter 6: INSURANCE FOR ALL BY 2024⁹

The insurance regulatory authority of India has taken many steps to include many people under health insurance. They have taken a new “customer centric” journey in the latest norm that is insurance for all by 2047. This will be taken effect from April 2024 together with the fiscal year. The IRDAI has proposed many changes to health insurance rules, which includes considerable change through drop-in cancellation fees on plans.

Since new rules has come into force this year, the regulatory authority has given time till September to comply with the new rules.

- (a) The changes include “No Claim Bonus” which is a type of reward given to the policyholder if he had a no claim year. These kind of rewards helps in reducing unwanted claim by the policyholder and to ensure a better financial protection at the time of distress.¹⁰
- (b) Refund on cancellation of health insurance policies: Earlier if the health insurance policies are cancelled after six months after the free look period there are zero refund from an insurer. Even if it was after one month the maximin refund available will be 75%. Now it has changed that the refund will be a proportionate one. For example, if you have a policy of Rs.50,000 and if you cancel the policy then you will be eligible for a refund of Rs. 25,000 on condition that you haven’t filed any claim. One of the main changes made in the new regulation was the reduction of 15 days’ notice period of cancelation to seven days.

⁷Policybazaar, “Health Insurance Plan” available at: <https://www.policybazaar.com/health-insurance/articles/paying-health-insurance-premium-in-instalments-is-now-possible/> (accessed on 4th October 2024)

⁸IRDAI, (2020) “Guidelines on COVID Standard Benefit based health policy) available at :<https://irdai.gov.in/web/guest/document-detail?documentId=394776> (accessed on: 4th October 2024)

⁹IRDAI (2022), “IRDAI Press Note - Insuring India by 2047” available at: <https://irdai.gov.in/web/guest/document-detail?documentId=1624671> (accessed on: 5th October 2024)

¹⁰Policybazaar, “No-Claim Bonus”, available at: <https://www.policybazaar.com/health-insurance/articles/no-claim-bonus-in-health-insurance/> (accessed on: 5th October 2024)



- (c) Reduced paperwork and high scrutiny: The IRDAI has mandated that the insurer has to obtain the documents directly from the hospitals in order to ensure proper valuation and there will be a “claim review committee”. And this committee will be reviewing the claim and decide whether they are accepted or denied. If it is denied then the committee must provide the specific reason along with relevant documentation.¹¹
- (d) Transparency in policy: The new regulation has made all the insurer to display the health insurance details so that there would be transparency and accessibility. It’s a step taken to make the health insurance policy a customer centric one. This includes listing the hospitals and healthcare providers where they can avail cashless settlement where they have common network hospitals and there should be clear guidance on issue of claims when the treatment is done at non-network hospitals. The procedures for the cashless claim settlement and reimbursement along with time for claim processing. There should be list of products that have offer along with withdrawn should be shown so that the policyholder will be able to avail such benefits in case of emergencies.¹²
- (e) Penalty for not complying with ombudsman orders: To ensure timely resolution of disputes and to enforce accountability among insurer the IRDAI has introduced penalties for the insurance companies that delay the implementing order issued by the ombudsman. The insurer must comply with the implementation order within 30 days, failure to do so will results in penal interest payment at the rate of two percentage above the prevailing bank according to the regulations published in the “Protection of Policyholder”.¹³

Chapter 7: LEGAL FRAMEWORK FOR CONSUMER PROTECTION

The regulation for consumer protection has been evolved particularly in response to the covid-19 pandemic. There are also several trends that are being followed to enhance the consumer protection

7.1 IMPLEMENTING CONSUMER PROTECTION ACT, 2019¹⁴

¹¹FE Bureau(2012) “Simplify policy document in healthcare sector”, available at:

<https://www.financialexpress.com/archive/simplify-policy-documents-in-healthcare-sector-irda/936097/>(accessed on 5thOctober 2024)

¹²Anulekha Ray, “Health insurance premiums can be reduced if you don’t make a claim, policy cancellations to be less costly and more: 5 rule changes” available at: <https://economictimes.indiatimes.com/wealth/insure/health-insurance/health-insurance-premiums-to-be-reduced-if-you-dont-make-a-claim-policy-cancellations-to-be-less-costly-and-more-5-irdai-rule-changes/articleshow/110612599.cms> (accessed on: 5th October 2024)

¹³IRDAI, “IRDAI (Protection of Policyholders’ Interests) Regulations, 2017.pdf” available at: <https://irdai.gov.in/document-detail?documentId=385593>(accessed on 6thOctober 2024)

¹⁴Ministry of Law And Justice, “ THE CONSUMER PROTECTION ACT, 2019” available at : https://ncdrc.nic.in/bare_acts/CPA2019.pdf (accessed on 7th October 2024)



This act has ensured fair treatment of the insurer prohibiting false advertisement, unlawful contract clauses and unjust recruiting procedures. This act has also promoted transparency and liability in the insurance sector so that the insurer is informed regarding the new trends and policies.

The New Consumer Protection Act was passed on 9th August 2020 that replaced the 1986 Act. The New Act has many rules that protect the interest of the consumers than the Act of 1986. It offers more advantages to the consumer by covering online sales, teleshopping, and other digital activities covered under this Act.

Key highlight of this Act includes

(a) Expanding the Definition of “Consumer”:

In section 2(7) of the Act, a “consumer” is defined as a person who buys any goods for consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. This includes users of such goods other than the person who buys them, provided their use is with the approval of the buyer. And any service for consideration, which includes services provided by insurance companies.

The Act have also included insurance policyholder who purchases insurance policies for a consideration. This means they have the right to seek redressal for any shortcomings in services related to insurance policies. And along with those beneficiaries of insurance policies. It means that if the policyholder passes away the benefits can be claimed by the beneficiaries.

Consumer right under consumer protection act,2019¹⁵

- Right to information: The consumer has the right to be informed about their health insurance policies, that includes the premium, insurance coverage and exclusion to ensure transparency, so that the consumer can take informed decisions.
- Right to safety: The health insurance is to protect the health and money of the people so that the insurer must state what all are covered under the insurance especially regarding the serious illnesses, treatments and procedures. And in order to avoid any scenarios where claims are denied due to unclear clauses in the insurance agreement. So that the safety of the customer is guaranteed.
- Right to Redressal: And in case if the above scenario occurred where there is denial of claim or unsatisfactory services, the customer can file a complaint under the CPA, and can

¹⁵Law of Consumer Affairs ,“Consumer Protection” available at : <https://consumeraffairs.nic.in/organisation-and-units/division/consumer-protection-unit/consumer-rights>(accessed on 8th October 2024)



availGrievance Redressal Mechanism. This mechanism protects the consumer against the unfair trade practices and policies and violation of consumer rights. This is also feasible and less time consuming.¹⁶

- Right to be protected: if the insurer is denying the policy coverage for essential treatment based on any ambiguous policy language, then the right of the policyholder of being protected is being violated.
- Right to consumer Awareness: Campaigns like “Jago Grahak Jago”¹⁷ are introduced by the government to create awareness among the consumers of their rights and responsibilities. This measure helps the consumer to take informed decisions and they can be protected against misleading practices and to empower them to seek redressal.

The Consumer Protection (E- Commerce) Rules, 2020: takes an important role in protecting the rights of the consumer in digital transactions and online services. Since Telemedicine services have been covered under the covid- 19 insurance policies, this regulation has increased the standard of transparency and security. The insurer is required to provide clear information regarding the e-commerce services. This includes legal name, contact details, information, about the services provided. This rule has also mandated that the platform should have a redressal mechanism, where the policyholder have a chance to address the issue related to services.

7.2 CCPA: CENTRAL CONSUMER PROTECTION ACT¹⁸

Serves the requirement of policyholders as an essential regulatory agency, particularly in health insurance. It protects the rights of the consumers while maintaining the market free from deceptive advertisements, unjust claim processing and ambiguous policy terms.

There are regulations regulating unfair trade practices that is the main functions of the CCPA, which is the active steps to prevent unfair commercial practices, including deceptive marketing and promotion by health insurance. The CCPA offers an environment in which policyholder may freely make informed and appropriate knowledge regarding their health insurance, free of misrepresentation that led to the purchase of substandard or unsuitable plans.

The CCPA provides policyholders with an extraordinarily comprehensive grievance- redressal system to handle claims denials, delay and fair treatment. This system allows the policyholder to file a

¹⁶Confonet, “Consumer Rights”, available at: <https://confonet.nic.in/consumerrights.html> (accessed on 8th October 2024)

¹⁷Law of Consumer Affairs, available at : <https://jagograhaakjago.gov.in/> (accessed on 8th October 2024)

¹⁸Central Consumer Protection Authority, “CENTRAL CONSUMER PROTECTION AUTHORITY (CCPA)”, available at: <https://doca.gov.in/ccpa/> (accessed on 8th October 2024)



grievance with the CCPA, which may then investigate the situation and impose corrective actions against an insurer, offering a credible conduit for integrated yet fair dispute settlement.¹⁹

Part of the interesting mandate of the CCPA is the education of the policyholder on their rights. Cumulatively through campaigns and outreach programs, the CCPA increases knowledge of entitlements under the health insurance plan, such as the free look periods, claims procedures and grievance resolution mechanisms. This approach enables by means of proper empowerment-consumption specific entitlement awareness in different geographical concerns.²⁰

Chapter 8: REGULATION OF HEALTH INSURANCE:²¹

8.1 IRDA: INSURANCE REGULATORY AND DEVELOPMENT ACT

In 1999, the Insurance Regulatory and Development Act (IRDA) was enacted due to the financial reforms that took place in India. The aim of the Act was to protect the interest of the policyholder and control the stable growth of the insurance market in orderly manner. The Act opens opportunity for privately capitalized participants in the Insurance market including the health insurance market. However, the entry requires a minimum capital requirement of Rs. 100 Crore, which has been specifically mentioned. Additionally, the Insurance Act prevents the insurer from engaging in any business activity which is unrelated to the core insurance business. This Act also creates a Code of Ethics for the insurance broker and a Tariff Advisory Committee to control premium prices, reviewing insurance schemes and promoting fairness among the insurance providers. However, it is silent with regard to any specific provisions for safeguarding the interest of consumers. The Act defines the parameter or range in which rules can be created. This act empowers the IRDA to make provisions that regulates the licensing of the agents. These provisions define the minimum credential, requirement of practical experiences and costs to be incurred in obtaining a license. It is to be noted that any rules formulated shall not be contravention of the Act. The making of policies, rules and regulations are often done in consultation with key individuals and organizations who are to be mostly impacted. They

¹⁹Owen Drummond,(2024), "Understanding Legal Rights under CCPA for Consumers in India", available at: <https://bda-skl.in/understanding-legal-rights-under-ccpa-for-consumers-in-india>(accessed on 9th October 2024)

²⁰ Law of Consumer Affairs, "Consumer Protection" , available at: <https://consumeraffairs.nic.in/acts-and-rules/consumer-protection>(accessed on 9th October 2024)

²¹IRDAI(2007), available at: <https://irdai.gov.in/document-detail?documentId=366291>(accessed on 10th October 2024)



come into force after being published in the Official Gazette. And these regulations are to be presented in the parliament upon their formal notice.²²

Laws and regulations are indeed sometimes referred to as “secondary legislation” in that they are amended and supplemented as circumstances require. There are concrete tools for expanding on and implementing the specific of fundamental legislation, providing prompt aid and direction to the public. This is the main reason why secondary legislation is preferred over the primary legislation, which takes lengthy procedures and time to amend or change.²³

Globally, legislative reforms extending executive branch powers, including the provisions of Quasi-Judicial decision-making authority. In this regard, the IRDA which is empowered to issue public instruction. These instructions may bar insurer from acting in ways that are damaging to policyholder, guarantees good practice in management and will create a strong-piling effect for the insurance sector. These instructions can restrict the action of the insurers that cause damage to the policyholders and ensure good management practices and the integrity of the insurance industry. Such commands are necessary for maintaining peace and defend the interest of the policyholder.²⁴

8.2 REGULATING THIRD PARTY ADMINISTRATORS

In the year 2000, a working committee was set up by the IRDA with the objective of developing legislation for a new type of health insurance intermediaries. This group consisted of representatives from current Third-PartyAdministration (TPAs), public and private non-life insurance companies and IRDA members, debated the white papers and examined which are issued by the IRDA. After a yearlong discussion, the draft “Insurance Regulatory and Development Authority” (Third Party Administrators- Health Services) Regulations, 2001. The Regulations set forth within these includes qualifying criteria, the scope of service, capital adequacy, solvency requirement, operational standards and ethical norms for Third Party Administrators (TPAs) within the regulatory structure of the IRDA,1999, defining them inter alia within the intermediation domain.²⁵

Most distinctive notable about them is that they are explicitly designed for regulations promulgated by the IRDA facilitating health insurance. They formalized the functions of the TPAs by establishing the

²²IRDAI, (2007), available at: <https://irdai.gov.in/documents/38105/49819/IRDA+Brochure.pdf/e76c551c-9036-44de-6933-bb5aed15004d?version=1.0&t=1631522672098&download=true>(accessed on 11th October 2024)

²³98thFoundationCourse,availableat<https://mcrhrdi.gov.in/2024/splfc2024/material/Handbook%20Law%202024%20FC.pdf> (accessed on 12th October 2024)

²⁴IRDAI (2017), available at: <https://irdai.gov.in/document-detail?documentId=385593>(accessed on 12th October 2024)

²⁵IRDAI, “Requirements for registering as a TPA”, available at, <https://irdai.gov.in/requirements-for-license-as-a-tpa>(accessed on 13th October 2024)



licensing process for these intermediaries entrusted with healthcare services to insured beneficiaries. These legislations also permitted the implementation of a “cashless system”, which streamlines access to medical benefits and speed up claim settlements. Besides, the requirements stipulated that personnel involved at TPAs include strict educational and professional qualification and strict observance of a stipulated code of conduct.²⁶

This legislation has significantly increased awareness and trust in the minds of customer towards health insurance. However, many experts believe that it has to be repealed and reformed according to the present changing of the healthcare sector and demand of higher quality of treatment. There is mounting evidence that the Third-Party Administrators system has not completely succeed in improving healthcare quality or the rising healthcare expenditures because TPAs activities are routinely cited as responsible for current high loss ratios for health insurance markets. To address this issue, the IRDA has stringent criteria for the grant of license to TPAs to uphold the standards and the accountability of the system.²⁷

As per current rules require Third Party Administration (TPAs) need to maintain at least Rs. 10 million as minimum equity capital. However, this capital requirement is very permissive, which might lead to an influx of participants, some of whom may not meet the needed quality criteria. An increase in the number of TPAs might lead to more competition and lower profit margins. Moreover, large intensive long payback infrastructural set ups are crucial for the functioning of TPAs. They also face significant operational risk also attached to the fact that they may not be able to achieve such high economic scale at which one may find profitability. Because a TPAs revenue is determined by the number of policies it manages, it became mandatory to have enough policies to ensure that the agency’s economies are made.

8.3 JUDICIAL BRANCH

The court interprets both main and secondary legislation under insurance laws in order to ascertain the fairness of application of rule. It settles dispute between the insurer and policyholders, protect the public by imposing civil fines or criminal penalties for violations and defend the insurers, agents and intermediaries by invalidating arbitrary or unconstitutional laws, regulations or directives imposed by the insurance regulatory authority. The Supreme court of India is the apex court, and any order passed by it shall be final and binding.

²⁶IRDAI, (2024) “List of Third Party Administrators” available at: <https://irdai.gov.in/tpa>(accessed on 13th October 2024)

²⁷IRDAI, “Consumer Education Website” available at: <https://policyholder.gov.in/third-party-administrators>(accessed on 13th October 2024)



In order to resolve the conflict efficiently, some court serve different parts of the country. India has also implemented system such as the Consumer courts, insurance ombudsmen and Lok Adalat to provide expedited ways for resolving consumer complaints. These courts and forums offer quick, ready and inexpensive justice for consumer grievances concerning insurance activities.²⁸

As appellate authority, direct tribunals have specialized adjudicate powers for industry or sector specific concern. These entities do not form part of the judicial branch but they are nonetheless considered part of the court system.

Regulations are excellent tools for ensuring that private health insurance become more economically accessible, engendering consumer trust and facilitating the systematic progress of the health insurance sector. Regulations also serves as a compass to health insurers and other industry players such that private health insurance benefits from significant growth and development of private health insurance. Subgroups and committee of the Health Insurance Working Group of the Insurance Regulatory and Development Authority all supported the enactment of regulations particularly targeted towards the health insurance.²⁹

The legislative and regulatory structure for private health insurance that operates in a voluntary market must always strike a balance between accessibility and cost and quality of care, it should be also considering health coverage for a much larger segment of the population with varying risk profiles and financial resources. The regulations can also be good instrument for improving access to health care, regulating the prices of health plans relatives to providers, and elevating overall service quality, beyond just the protection of the rights and interests of private health insurance policyholders and beneficiaries.³⁰

Chapter 9: COMPARATIVE ANALYSIS: OF HEALTHCARE INDUSTRY IN INDIA & US

9.1 INDIA VS US : HEALTH INSURANCE

²⁸Clear(2024), “Consumer Court of India”, available at: <https://cleartax.in/s/consumer-court>(accessed on 14th October)

²⁹Plancover, “Who regulates the health insurance industry sector In India and how?” available at: <https://www.plancover.com/insurance/who-regulates-the-health-insurance-industry-sector-in-india-and-how/> (accessed on 15th October 2024)

³⁰Law4U Team,“What is the role of the judiciary in insurance law in India?”,availableat: <https://law4u.in/answer/2738/What-is-the-role-of-the-judiciary-in-insurance-law-in-India#:~:text=Courts%20can%20take%20action%20against,unfairly%20treated%20by%20insurance%20companies>(access ed on 16th October 2024)



India is a predominantly mixed but government driven approach. India has a heavy dependency on government- funded schemes to finance health coverage for the economically weaker sections. For example, the Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PMJAY)³¹ is designed to offer financial protection for low-income families are financially protected by covering hospitalization costs for secondary and tertiary care. Unfortunately, these schemes have limited funding issues, uneven implementation, and there is limited penetration in the rural areas.³²

Private insurers dominate the urban market, although the vast majority of the policies are taken out by the middle- and high-income groups. These plans often provide superior quality healthcare through the network of private hospitals, but are generally expensive and out of reach for many in lower income brackets. Besides, penetrating private health insurance in India remains relatively low, estimated at about 36% of the population.

United States: Predominantly private with Government Supervisions. Employer-sponsored insurance in the US, Health Insurance, is defined mainly in terms of employment; it is an employer's service for employees and it covers a major part of the working populations. It is covered under private insurers, whereby the plans are similar but the competition pricing driven by government regulation through the Affordable Care Act (ACA). There is also government funded programs for the vulnerable groups of the US.³³

Medicare: Benefits those who are 65 and older, along with certain disabled individuals. Medicaid³⁴ : provides health coverage for low-income individuals and families Expansion under the ACA increased eligibility, covering millions of uninsured Americans.

Subsidies: Under the ACA, the government offers financial support to individuals who purchases insurance on exchanges, to reduce cost for low- and middle-income group.

9.2 UNIVERSAL COVERAGE AND ACCESSIBILITY:

The feature of health insurance in India are very different from those in other countries since it has no mandate for universal covering. In India, PM-JAY aims to offer health insurance to over 500 million economically vulnerable persons. This project provides free treatment at public and

³¹National Health Authority "About Pradhan Mantri Jan Arogya Yojana (PM-JAY)" available at: <https://nha.gov.in/PM-JAY> (accessed on 16th October 2024)

³²THLS, available at: <https://ijsdcs.com/index.php/TLHS/article/download/485/199>(accessed on 17th October 2024)

³³Bakshi, Bui, Kumar, "Economics of universal health coverage in India: A comparative analysis" , available at: <https://www.jchm.in/html-article/22869>(accessed on 17th October 2024)

³⁴Healthcare, "Medicaid expansion & what it means for you", available at: <https://www.healthcare.gov/medicaid-chip/medicaid-expansion-and-you/> (accessed on 17th October 2024)



private institutions for secondary and tertiary care, up to Rs.5 lakh per family per year. In India, individuals are not required to purchase health insurance, unlike the ACA in the United States. This voluntary character leads to poor penetration rates, particularly among informal sector workers and rural communities.³⁵

In US, the Affordable Care Act, (ACA) is a fundamental change to the United States healthcare insurance system that aims to improve accessibility and promote universal coverage. The key feature includes: The Affordable treatment Act (ACA) mandates that health insurance plans include essential health benefits such as the outpatient treatment, emergency care, maternity care, mental health services, and prescription medicines. This standardization is intended to offer a safety net for all individuals, regardless of insurance provider. Prior to the ACA, those with prior medical condition were often denied insurance or had to pay expensive rate of interest. The ACA forbids insurer from refusing coverage because of pre-existing conditions, assuring equal access to healthcare for all.³⁶

The Affordable Care Act (ACA) provides subsidies to increase the affordability of health insurance. And there is Premium Tax Credit, has provided financial help to individuals and families with income ranging from 100%-400% of the federal poverty threshold. These subsidies cut monthly premiums. The states were given the option of expanding Medicaid eligibility to anyone making up to 138% of the federal poverty line. This measure has dramatically boosted coverage among low-income populations. Despite these gains, gaps in universal coverage remain due to political opposition to Medicaid expansion in some states and the lack of a single- payer system.³⁷

9.3 POLICYHOLDER PROTECTION³⁸

Policyholder protection is an important part of health insurance because it ensures that consumers are treated fairly, receives credible information, and have access to required treatments. In the US, strict laws and priorities openness and justice in the insurance industry. Insurers are expected to properly disclose the price, coverage features, exclusions and

³⁵Ministry of Health and Family welfare (2018), “Ayushman Bharat –Pradhan Mantri Jan Aarogya Yojana (AB-PMJAY)” <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1546948>(accessed on 20th October 2024)

³⁶ASPA , U.S Department of Health & Human Science(2022), “About the Affordable Care Act”, available at :<https://www.hhs.gov/healthcare/about-the-aca/index.html>(accessed on 20th October 2024)

³⁷Sara Rosenbaum (2011), “The Patient Protection and Affordable Care Act: Implications for Public Health Policy and Practice”, available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC3001814/>(accessed on 22nd October 2024)

³⁸IRDAI, “Consumer Education Wrbsite: Policy holder protecting Committee”, available at: <https://policyholder.gov.in/policyholder-protection-committee>(accessed on 22nd October 2024)



conditions so that consumers may take proper decisions. The Affordable Care Act (ACA) is crucial, outlawing practice like refusing coverage based on pre-existing diseases and requiring standardized features across plans. This framework creates a level playing field for policyholders and eliminate the threat of unfair practices.³⁹

9.4 HEALTHCARE QUALITY AND PROVIDER NETWORK

In the US, having health insurance is frequently associated with having access to prestigious medical professionals and highly advanced technology. Many insurances plan contains a network of highly regarded hospitals and experts guaranteeing that covered people may access cutting edge therapies and services. This relationship between insurance coverage and high-quality healthcare infrastructure significant factors of the US health system, where insurance plans try to give access to the finest available treatment, particularly for customers in the private insurance market.⁴⁰

9.5 MENTAL HEALTH AND PREVENTIVE CARE

Mental Health in India has always been neglected and stigmatized. Although awareness is growing, many people continue to have limited access to mental health care. The governments mental health schemes have improved in the past years, with measures like the Mental Healthcare Act of 2017⁴¹, which aims to provide mental health treatment, eradicate stigma and protect the rights of the people with mental diseases.

Insurancecoverage: The coverage of mental health insurance is becoming more frequent yet not so frequent. Recently, legislation demanded that insurance coverage cover mental health condition on the same level as physical ailment. However, the mental health insurance cover access has been limited, with many plans providing very modest coverage for mental healthcare resulting in high out-of-pocket payments by the patients.

Preventive care: Preventive care in India involves regular health check-ups, vaccinations, and health education, although availability and awareness are limited especially in rural areas of the country. There are many programs like the National Health Missions programs strive to

³⁹Will Kenton (2022), “Affordable Care Act (ACA): What It Is, Key Features, and Updates”, available at: <https://www.investopedia.com/terms/a/affordable-care-act.asp>(accessed on 23rd October 2024)

⁴⁰Alexey Witch (Edited on 6th July 2024), “Healthcare in the United States”, available at: https://en.m.wikipedia.org/wiki/Healthcare_in_the_United_States(accessed on 24th October 2024)

⁴¹“The Mental Healthcare Act, 2017, available at: <https://www.indiacode.nic.in/bitstream/123456789/2249/1/A2017-10.pdf>(accessed on 26th October 2024)



enhance preventative care, although there is a gap in the adoption and access of such work. Many patients rely on the personal income for preventative treatments; thus, it is important to create awareness and keep the policyholders up to date regarding the available policies.⁴²

Mental Health in the United States:

The United States acknowledges the connections of mental health to total wellness. According to the Mental Health Parity and Additional to the Mental Health Parity and Addiction Equity Act of 2008⁴³, mental health care must be equal to medical care. However, there are still challenges such as high prices and limited access, especially for the marginalized populations. Mental health treatment such as the therapy and psychiatric medications, is generally covered by most health insurance in US. But a different coverage or the inclusion of such treatment in the plans, with deductibles and copays influencing the access. Medicaid and Medicare have expanded their benefit packages to include more mental health services, but there still exists disparities in access, particularly along the individuals who have low income.⁴⁴

Preventive care in American health care, such as screening, vaccination and wellness visits, is the primary area of focus. The Affordable Care Act (the act or public laws 111-148) (2010)⁴⁵ makes some preventive services available without patient cost sharing. This has made it easier for people to access required preventive care. Preventative care is generally covered by insurance plans in the US. Most plans waive copays for annual checkups, vaccinations, cancer screenings and counseling, which encourages people to get preventive care and generally improves health outcomes.⁴⁶

Both nations have unique problems in terms of the relevance of mental health and preventive measures due to differences in healthcare systems and social backgrounds. The US has made significant improvement in insurance coverage for mental health and preventative treatment, whereas India is making progress but still needs to do much more to provide fair access.

⁴²Meghrajani VR, Marathe M, Sharma R, Potdukhe A, Wanjari MB, Taksande AB. A Comprehensive Analysis of Mental Health Problems in India and the Role of Mental Asylums. *Cureus*. 2023;15(7):e42559. Published 2023 Jul 27. doi:10.7759/cureus.42559, available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC10460242/> (accessed on 28th October 2024)

⁴³American Psychiatric “Mental Health Parity”, available at: <https://www.psychiatry.org/psychiatrists/advocacy/federal-affairs/health-insurance-coverage-access-to-care/mental-health-parity> (accessed on 28th October 2024)

⁴⁴CMS Gov, “The MHPAEA”, available at: <https://www.cms.gov/marketplace/private-health-insurance/mental-health-parity-addiction-equity> (accessed on 1st November 2024)

⁴⁵“Public Law (2010)”, available at: <https://www.congress.gov/111/plaws/publ148/PLAW-111publ148.pdf> (accessed on 1st November 2024)

⁴⁶KFF, “Preventive Services Covered by Private Health Plans under the Affordable Care Act” (Updated on 8th Feb 2024) available at: <https://www.kff.org/womens-health-policy/fact-sheet/preventive-services-covered-by-private-health-plans/> (accessed on 3rd November 2024)



Chapter 10 : JUDICIAL APPROACH

The judiciary best assists the health insurance system by interpreting and enforcing the law. Courts in India have played a key role in protecting policyholders right, resolving disputes and clarifying regulatory ambiguities. The judiciary fills gaps in the legislative and executive frameworks, ensuring the health insurance is easily accessible and free of deceptions. Thus, this sections discussion several major court intervention and decisions that have an impact on client protection and regulatory compliance regimes in the Indian health insurance industry.

10.1 JACOB PUNNEN VS. UNITED INDIA INSURANCE CO. LTD. (2021)⁴⁷: Jacob Punnen had a clash with the United India Insurance Co. Ltd it was to settle the claim against the insured Jacob claiming reimbursement for damage to property under the policy issued to him by the defendant, which however denied the claim as procedural matters like insufficient documentation. The court examined the terms and conditions of the insurance, the evidence and correspondence between the parties. The court ruled in favor of Jacob, holding that ambiguity in contracts of insurance needed to be interpreted by favor. The court also reiterated the obligation of insurers to act in good faith and to consider the claims transparently in order to safeguard standards of consumer protection. It is a landmark decision in the sense that it gives great momentum to the equal treatment of policyholders in India. ⁴⁸

10.2 MANMOHAN NANDA VS. UNITED INDIA ASSURANCE CO. LTD. (2022)⁴⁹:

This case highlighted policyholders rights and insurers duties under the Indian law. The controversy arose after United India Assurance Co. Ltd disallowed Mr. Manmohan Nanda's claim under an international Mediclaim insurance policy. The insurer allegedly has denied the claim due to a failure to disclose the facts and procedural issues. Nanda challenged the refusal, citing that the secrecy and inequitable terms in the insurance and claims processes. The supreme court ruled against the insurers interpretation of the policy. It stressed key concepts that should be followed during both the insurance proposal and claim settlement stages. It further concluded that insurance clause must be interpreted

⁴⁷Appeal (Civil), 6778 of 2013

⁴⁸Indian Employee Teams, "JACOB PUNNEN & ANR. VERSUS UNITED INDIA INSURANCE CO. LTD.", available at: <https://www.indianemployees.com/judgments/details/jacob-punnen-anr-versus-united-india-insurance-co-ltd> (Accessed on 5th November 2024)

⁴⁹ SC Civ. Appeal No. 8386 of 2015



rationality and that ambiguity should not be utilized to the prejudice of the policyholder unless there is strong evidence of unacceptable deception.⁵⁰

10.3 SRI BENSON GEORGE VS. RELIANCE GENERAL INSURANCE CO. LTD. (2022)⁵¹

The case dealt with third party insurance claim, not plaintiff's rights to adequate and equitable reimbursement. Sir Benson George filed a claim for injuries resulting from an accident under his automobile insurance coverage. The insurance company appealed to the amount which was granted for pain, suffering and loss of amenities, claiming that it was excessive. He requested an increase in the compensation sum, alleging that it was inadequate in light of the nature and intensity of the damage, as well as its impact on his life.

The Supreme court seriously considered the claim in accordance with the rules established by the case law of *Raj Kumar v Ajay Kumar and Lalan. D v Oriental Insurance Company Limited*, and stated that being classified as damages such as pain, suffering and loss of amenities would be based on the facts of each case. It examined a variety of factors, including extended hospitalization, operations and a worse quality as a result of an accident. As a result, it advocated for an increase in the compensation granted to Sri Benson George based on the severity of his injuries and the physical and mental anguish he experienced.⁵²

This judgement highlighted that damages should be calculated based on the claimant's future inability to enjoy life or loss of amenities as a result of the accident. This essentially emphasizes an insurer's obligation to process claim honestly and equitably, it also highlighted the judiciary's role to safeguard the policyholder through particular compensations in situations where insurers may seek to lessen their responsibilities.⁵³

10.4 NARSINGH ISPAT LTD. AND ORIENTAL INSURANCE CO. LTD. (2022)

The issue in this case stems from a claim filed by an individual for harm caused on his insured property during a disturbance. This occurred when Narsingh Ispat Ltd approached the insurance company to file a claim for a covered property under specific terms and conditions. Oriental Insurance

⁵⁰FCS Deepak P. Singh (2021), "An Insurer cannot Repudiate a claim by citing Existing Medical Condition- SC, available at: <https://taxguru.in/corporate-law/insurer-repudiate-claim-citing-existing-medical-condition-sc.html> (accessed on 8th November 2024)

⁵¹ CIVIL APPEAL NO. 1540 OF 2022

⁵² Indian Kanoon "Benson George vs Reliance General Insurance Co. Ltd. on 25 February, 2022 , available at: <https://indiankanoon.org/doc/6660095/> (accessed on 10th November 2024)

⁵³Sri. Benson George Vs. Reliance General Insurance Co. Ltd.2022 Latest Caselaw 191 SC, available at: <https://www.latestlaws.com/latest-caselaw/2022/february/2022-latest-caselaw-191-sc/> (accessed on 12th November 2024)



Co. Ltd rejected the claim, saying that it constituted a “act of terrorism” under the policy description. In other words, the insurers stance is based on outside evidence indicating that the behavior was political or ideologically driven. Narsingh Ispat Ltd. On the other hand, denied that the incident had any political or ideological implications.

This would likely be the Supreme Court’s ruling on the constitutionality of the clause as an exclusion from insurance coverage in the same case. After reviewing the evidence, the court decided that there was no evidence that such an incident fell within the scope of the word “terrorism” as defined in the policy terms and exclusions. There should be some explanation for the certain exclusion. The court determined that the incident must be intimately related to political or ideological motive, which was not fulfilled in this case. Thus, another concept is discussed that the insurer would require sufficient proof against their exclusions, as well as open refusal of claims.⁵⁴

Thus, the ruling would determine policyholders’ rights against arbitrary denial of claims to covered parties based only on conjectural or unverified meanings of policy clauses. It has served to promote notions about consumers protection, notably equality and accountability in the insurance industry. Thus, these decisions will be a turning point in bringing policyholders justice to insurers in India and establishing how properly these persons will be treated.⁵⁵

10.5 LIFE INSURANCE CORPORATION OF INDIA VS V.S SENTHILKUMAR (2021)⁵⁶

The Madras High Court determined which would be included in the denial of an insurance claim owing to claimed non-disclosure of crucial health information. The Claimant V.S.S, claimed recovery of RS. 29,54,000 from two life insurance policies held by his deceased father V.M. Shanmugam. LIC refused the claim, citing Shanmugam’s failure to disclose pre-existing medical issues, including diabetes, when purchasing the insurance company maintained that this neglect has resulted in significant deception, justifying the claims denial.

The respondent contended that the insurance was legal and that the LIC’s refusal lacked sufficient reasons. The trial court found in Senthilkumar’s favor, instructing LIC to settle the claim and pay interest. Dissatisfied with the result, LIC filed an appeal with the High Court, which eventually affirmed the lower courts decisions. The High Court emphasized the insurers responsibility to

⁵⁴Jennings (2001), “Insurance Exclusion Clauses: Excluding War Risks and Terror Risks from Insurance Contracts” <https://www.everycrsreport.com/reports/RL31166.html> (accessed on 13th November 2024)

⁵⁵Livelaw, available at: https://www.livelaw.in/pdf_upload/443-narsingh-ispat-ltd-v-oriental-insurance-company-ltd-2-may-2022-416601.pdf (accessed on 15th November 2024)

⁵⁶ (2021) 4 ILI 123



substantiate claim of deception or non-disclosure. It determined that in the absence of solid evidence proving purposeful concealment of health information, the claim could not be refused. This case highlights numerous fundamental legal concepts. It emphasizes the insurers burden of evidence when asserting non-disclosure, ensuring that claims are not arbitrarily refused.

It also demonstrates the judiciary's commitment to safeguarding policyholder interest according to Consumer Protection Act. The decisions reinforced the necessity for insurer to operate honestly and equitably, fostering accountability in the insurance industry. Such lawsuit has a huge impact on the developing equitable practices in India insurance market. The respondent contended that the insurance was legal and that the LICs refusal lacked sufficient reasons. The trial court founded in Senthilkumar's favor, instructing LIC to settle the claim and pay interest. Dissatisfied with the results, LIC filed an appeal with the High Court, which eventually affirmed the lower courts decision. The HC emphasized the insurers responsibility to substantive claims of deception or non-disclosure. It decided that in spite of lack of clear evidence indicating deliberate withholding of health information, the claim could not be refused. This case highlights numerous fundamental legal concepts. It emphasizes the insurers burden of evidence when asserting non-disclosure, ensuring that claims are not arbitrarily refused.⁵⁷

CHAPTER 12: CONCLUSION

The outbreak had sparked transformational reforms in India's health insurance industry. Regulatory responses were fast, focusing on the addition of pandemic- specific coverages and effective consumer protection. Measures such as mandated Corona Kavach and Corona Rakshak plans, the use of telemedicine, and premium payment flexibility demonstrated IRDAI's ability to adapt to unprecedented situations. However, there are hurdles such as inconsistent implementation, lack of information and understanding and gaps in meeting rural healthcare requirements.

This paper emphasizes that while the legislative framework increased the opportunity for healthcare insurance, much more effort is needed to attain universal healthcare coverage. The comparative research with the India and US emphasizes the value of systemic initiatives, such as the Affordable Care Act, in ensuring broad coverage and standardization. Legal course of action in India, such as major judicial opinions, highlighted the court's rule in protecting the consumer rights and encouraging insurer to be accountable.

⁵⁷Live Well Team, "What Is Insurance Compliance?", available at: <https://livewell.com/finance/what-is-insurance-compliance/> (accessed on 15th November 2024)



Consumer Protection under the Consumer Protection Act, 2019 and subsequent revision has strengthened transparency and dispute resolution systems. However, regulatory enforcement and public education efforts need to be strengthened significantly in order to ensure fair access to healthcare insurance benefits. In the future, a balanced price, accessibility and quality of care will be critical in establishing an adequate healthcare insurance environment.

12.1 SUMMARY OF FINDINGS

- The IRDAI has implemented mandated pandemic specific regulations that included telemedicine and consumables that were not previously covered by the health insurance.
- In order to address the cost and transparency, the pandemic spurred changes including premium payment plans, internet medic shopping platforms and more transparent policy language.
- The court play an important role in protecting the interest of the policyholder by resolving claim related issues and removing ambiguity in the policy wording, court upheld consumer rights and ensure that the policyholder are treated fairly.
- In comparative perspective the US prioritized structural policies such as universal mandates and subsidies, emphasizing a stronger safety net for disadvantaged groups than India did.
- The survey shows that many of the customers knew very little about new rules and their effects, even in the face of regulatory moments.

12.2 POLICY IMPLICATION:

- Improving Awareness Campaigns: Increased outreach efforts are required to educate customers on insurance coverage, advantages, and new laws.
- Health Insurance Coverage: Expanding plans like Ayushman Bharat and enacting universal insurance laws might assure greater access, particularly for rural and economically disadvantaged populations.
- Mental Health Integration: Given the pandemic's psychological impact, providing comprehensive mental health coverage on the same level with physical health is critical.
- Regulatory reforms: Increased fines for noncompliance, as well as greater openness in claims processing, may increase insurer responsibility.
- Promoting Affordability: Low-income benefits and rewards for insurers who offer low-cost premiums might help to eliminate financial obstacles to insurance enrolment.

12.3 FUTURE RESEARCH DIRECTION



Future research should explore the long-term implications of the regulatory changes made in India's healthcare insurance market post-COVID-19. Investigating the effectiveness and sustainability of pandemic-specific policies, such as Corona Kavach, is crucial to understanding their adaptability to future healthcare crises. Research should also focus on the role of digital technologies in enhancing accessibility, particularly in rural areas, where penetration of health insurance remains low. Additionally, the integration of mental health and preventive care into health insurance frameworks deserves further exploration to gauge its impact on policyholder satisfaction and overall public health. Comparative studies between India and countries with universal health coverage, like the U.S. and Europe, could offer valuable insights into improving access, affordability, and quality standards.

The effectiveness of pandemic-specific policies like Corona Kavach should be evaluated not only in terms of immediate impact but also their potential for long-term application during future public health emergencies. Similarly, technological integration can be studied to determine its role in increasing insurance uptake, especially in underserved rural areas, while ensuring seamless claims processing and minimizing operational bottlenecks. Mental health and preventive care, which remain underrepresented in current insurance frameworks, require focused investigation to assess their inclusion and adequacy in improving public health outcomes.

Further, consumer perceptions and challenges related to insurance adoption, including barriers such as awareness deficits, affordability issues, and policy complexities, warrant comprehensive studies. This can inform strategies for designing inclusive policies and improving consumer trust. Collectively, these research avenues will provide a holistic understanding of the evolving healthcare insurance landscape and guide more equitable policy development.



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Appendix A: Questionnaire

The Questions are as follow:

9.6 What is your age group?

- Under 18
- 18-25
- 26-35
- 46-55
- Over 55

9.7 What is your Gender?

- Male
- Female
- Prefer not to say

9.8 What is your highest level of education?

- High School or Equivalent
- Associate Degree
- Bachelor's Degree
- Master's Degree
- Doctorate
- Other...

9.9 What is your occupation? *



- Student
- Employed
- Self-employed
- Unemployed
- Retired

9.10 What is your highest level of education?

- High School or Equivalent
- Associate Degree
- Bachelor's Degree
- Master's Degree
- Doctorate
- Other

9.11 Are you currently covered by any healthcare insurance policy *

- Yes
- No

9.12 How would you rate your understanding of your healthcare insurance? *

Rate 1-5



9.13 Have you noticed any changes in your healthcare insurance coverage since the COVID-19 pandemic?

- Yes
- No
- Not Sure

9.14 If yes, what specific changes have you noticed in your healthcare insurance coverage since the COVID-19 pandemic? (Select all that apply)

- Increased premiums
- Additional coverage for COVID-19 treatments
- Telehealth services included
- Changes in copayments and deductibles
- Other.

9.15 How satisfied are you with the changes in your healthcare insurance coverage post COVID-19?

Rate 1-5

9.16 Are you aware of any new regulations or laws regarding healthcare insurance introduced post COVID-19

- Yes
- No

9.17 How do you feel about the current consumer protection measures in healthcare insurance?



Rate 1-5

9.18 Have you encountered any issues or challenges with your healthcare insurance post COVID-19?

- Yes
- No

9.19 If yes, please describe the issues or challenges you have faced:

Long-answer text

9.20 Do you believe that the new regulations have improved consumer protection in healthcare insurance?

Rate 1-5

9.21 What changes or improvement would you like to see in healthcare insurance regulations and consumer protection measures?

- More transparency in policy terms
- Lower premiums
- Better coverage for chronic illnesses
- Improved telehealth services
- Other...

9.22 Any additional comment or suggestions:



APPENDIX B: DATA ANALYSIS

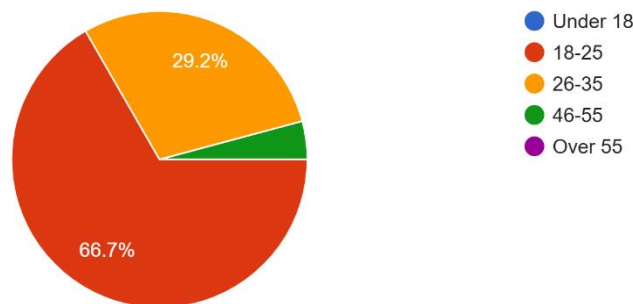
1. Age Group

The majority of respondents are aged 18-25, followed by 26-35, with a smaller representation from the 46-55 age group. This distribution indicates that younger individuals are predominantly represented in this survey.



What is your age group?

24 responses



18-25 years: This is the predominant age group, accounting for the majority of responses. Young adults in this group are typically in their education or early career stages, which may influence their perspectives on healthcare insurance, particularly in terms of affordability and coverage options.

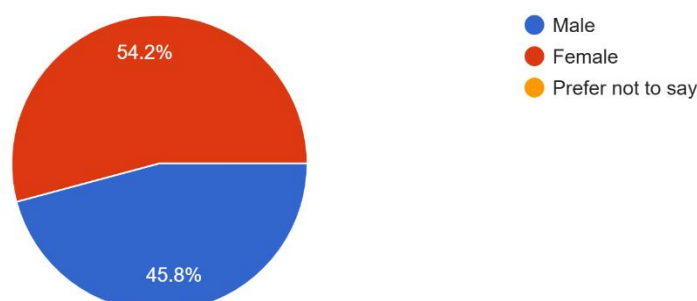
26-35 years: This group forms the second largest cluster, indicating that many individuals in this age range are likely employed and managing their own healthcare coverage. They may be more focused on practical elements like cost-effectiveness, chronic illness coverage, and telehealth services.

46-55 years: This group is represented less frequently, and they may have different healthcare needs and concerns, such as more established health conditions or family-related coverage. However, the sample size is small, so conclusions from this group are less statistically significant.

2. Gender

What is your Gender?

24 responses

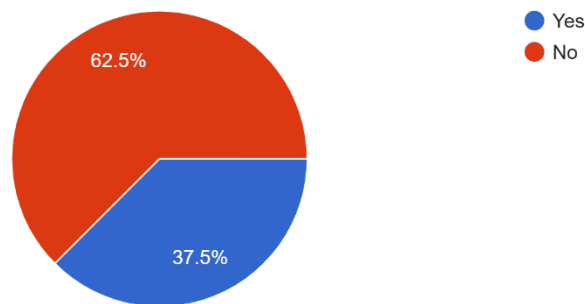




3. Coverage Data

According to the data, the number of people

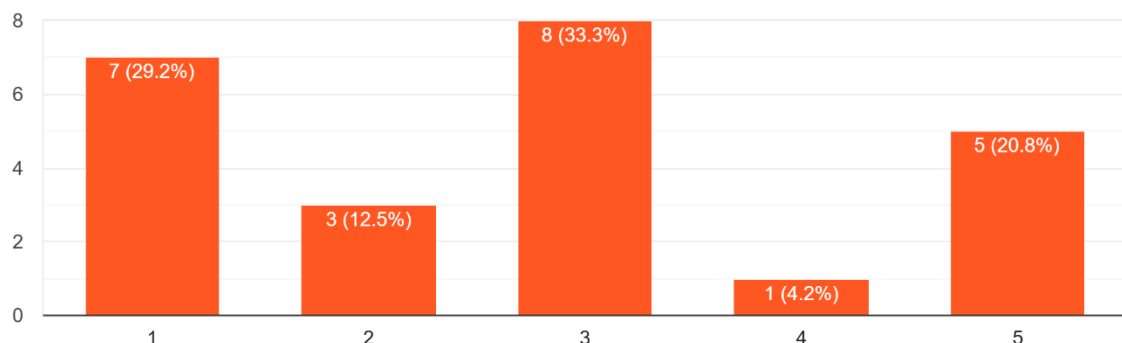
Are you currently covered by any healthcare insurance policy
24 responses



not covered under health insurance is very less. It can be due to reasons like affordability issues, as there premiums can be high, deductibles and out of pocket expenses make insurance expensive for many people. And in addition, many people are unaware of available and affordable health insurance plans or government subsidies due to lack of understanding about them. And there are also employees working without health benefits or irregular employment leave without insurance. And there can be also certain eligibility restrictions put on immigrant or part time workers, may not be eligible for public or private insurance program.

4. Knowledge on healthcare Insurance

How would you rate your understanding of your healthcare insurance?
24 responses



knowledge and understanding on health insurance is neutral for many, it means people may have some

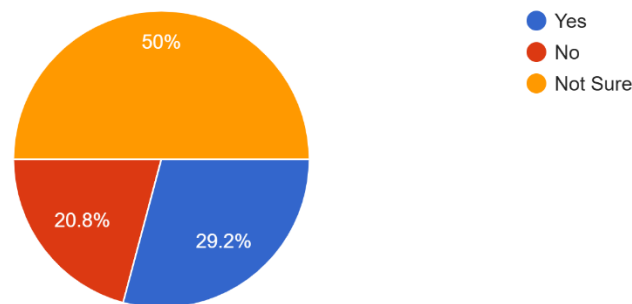


familiarity to it, especially if their parents or family members are covered under it, but they may lack detailed detail about plan structures, benefits, claim process. And the complicated terminologies, variety plan options, policy details can make it difficult to understand.

5. Awareness of Changes in Health Insurance after COVID-19

Have you noticed any changes in your healthcare insurance coverage since the COVID-19 pandemic?

24 responses



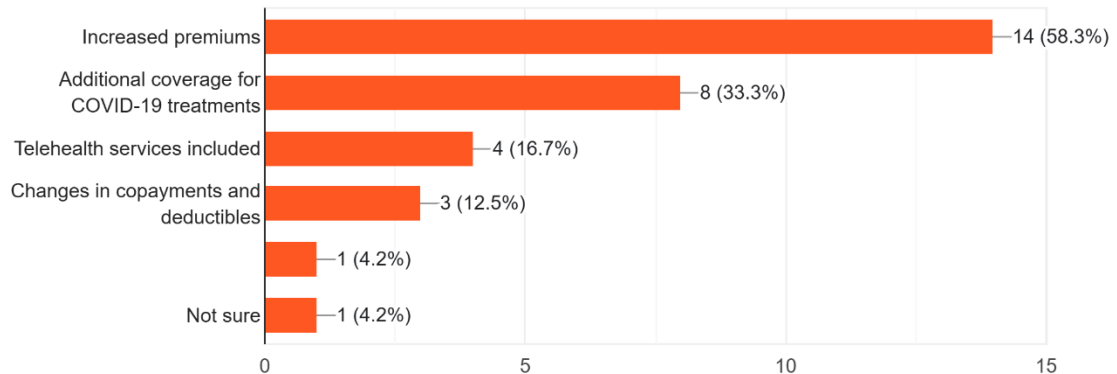
Reasoning Derived : In here, it's understandable that most of the people may be unsure of the changes in the regulatory changes due to the following reasons: Rapid and frequent policy changes, that is, when the outbreak happened it prompted the Government and insurer to make frequent updates to the policies such as the coverage extendable to telehealth or COVID-19 treatment. And mainly, limited focus on the awareness campaign.



6. What were the changes?

If yes, what specific changes have you noticed in your healthcare insurance coverage since the COVID-19 pandemic? (Select all that apply)

24 responses

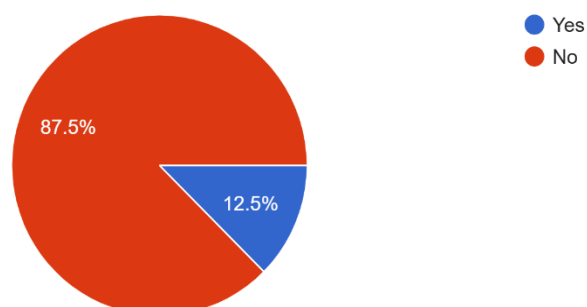


Reasonings Derived: Increased premium might be a result of broader coverage post pandemic, such as the pandemic specific treatments. And mental health services and wellness initiatives, driven by the pandemic psychological impacts, added to the coverage portfolio, leading to adjustment in the premiums. And mainly the higher risk pool as with the pandemic caused health risk in the patients, insurer had to broaden coverage to include high risk groups or pre-existing conditions, raising the overall costs.

7. Awareness of regulations introduced after COVID-19

Are you aware of any new regulations or laws regarding healthcare insurance introduced post COVID-19?

24 responses



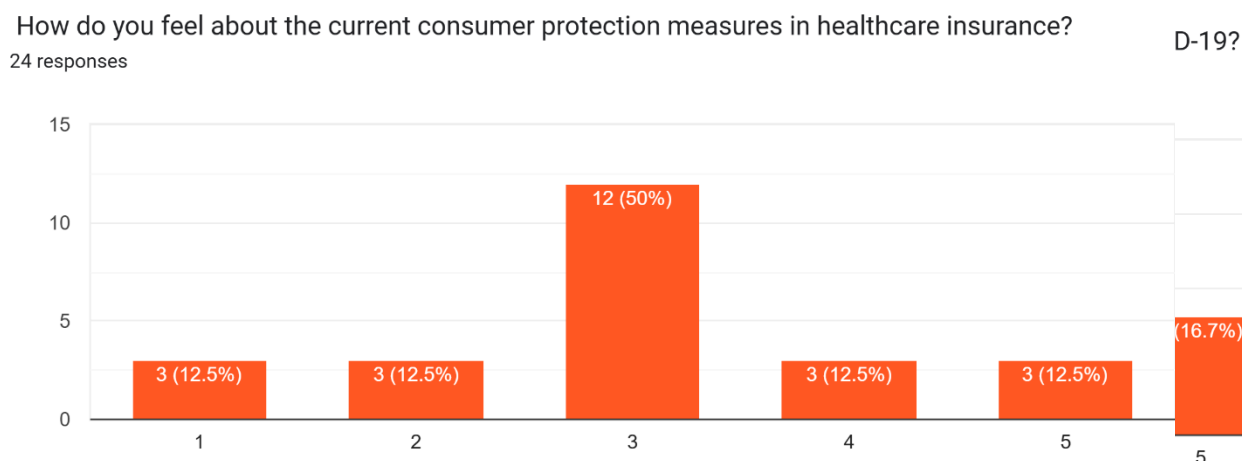


Reasoning Derived: After the pandemic, people might be more focused on immediate concern like economic recovery, leaving regulatory updates at lower priority. And insufficient awareness campaign by the regulatory bodies and insurers can be the reason.

8. People Satisfaction:

Reasoning Derived: Main reason might be the people might be the ones who haven't recently needed to rely on consumer protection measures may not feel equipped to rate their effectiveness. And the next reason might be mixed experiences, that resulted in the poor or neutral perception of the Consumer Protection Act.

9. Peoples satisfaction in changes in the Health Insurance Coverage



Reasoning Derived: The main reason might be minimal on personal experiences, changes in coverage might not have directly affected individuals health insurance plans or usage, resulting in a lack of

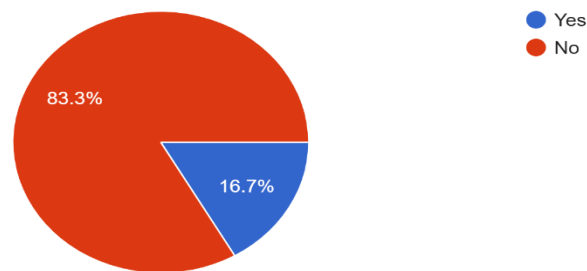


strong opinion. And people may also be unsure about whether these changes will remain beneficial or sustainable in the long run. And there is even more possibilities of lack of awareness.

10. Issues

Have you encountered any issues or challenges with your healthcare insurance post COVID-19?

24 responses

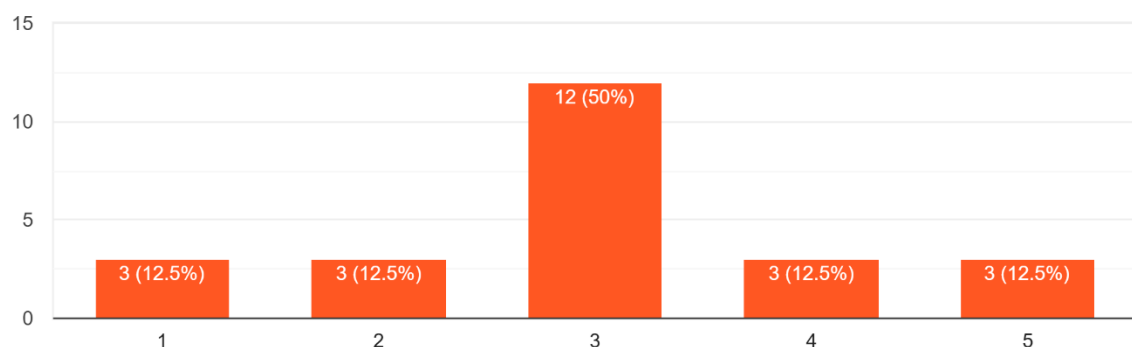


Reasoning Derived: If on the positive side, the higher “no” note must be due to the effective adjustment by the insurer, providing smoother processes and addressing customer needs. But it can also be due to individuals might not recognize or report systemic issues in their insurance policies, interpreting them as standard processes.

11. Feedback on new regulations in consumer protection in healthcare:

Do you believe that the new regulations have improved consumer protection in healthcare insurance?

24 responses



Reasoning Derived: majority of the people voting for neutrality might be due to the limited awareness of the new regulations that have been adopted to protect the interest of the policyholder. And some

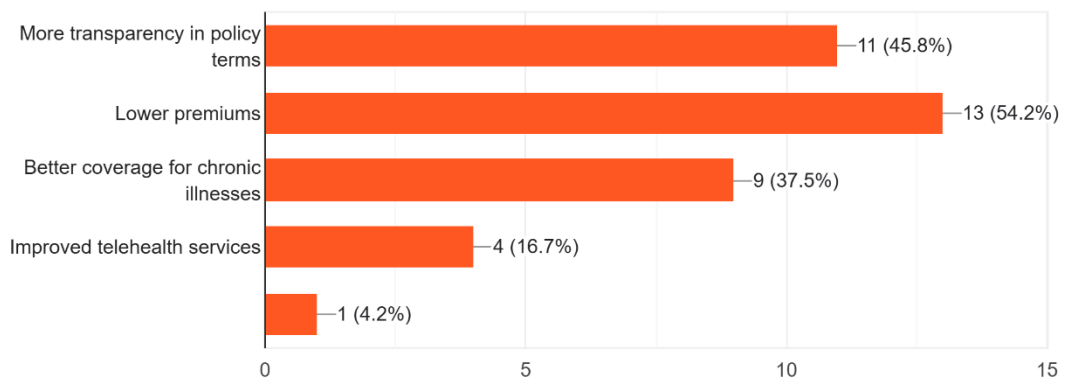


people may not have encountered situations requiring consumer protection. And the technical nature of the regulatory changes can make it difficult for consumers to understand their implications.

12. Necessary improvement or changes:

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barrier
for

What changes or improvements would you like to see in healthcare insurance regulations and consumer protection measures?
24 responses



many individuals, making reduced costs the most important improvement. The financial difficulties caused by the outbreak had led to the people prioritizing affordability over other factors. Complex terms make the consumer struggle to understand policy details so unambiguous terms should be used.

13. Following are the suggestions given by the survey respondent:

Suggestion	Count	Percentage
Simplify Policy Terms	8	33.3%
Make Policies More Affordable	10	41.7%
Expand Coverage for Mental Health	6	25%
Introduce More Government-Regulated Options	7	29.2%
Provide Faster Claim Settlement	5	20.8%