Healthcare Access and Financing: A Legal and Public Health Perspective

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KEYWORDS

Public health, Law, Health Policy

ABSTRACT

The welfare provisions of the current Constitution centre on healthcare. The Indian Constitution's Article 42 declares that the state has an obligation to take all reasonable steps to promote public health. Additionally, Article 47 of the Indian Constitution, another article containing Directive Principles of State Policy, mandates that the state carry out its primary duties to improve public health by raising the standard of living, improving nutrition, and improving public health. In particular, the state must work to outlaw the use of drugs and alcohol, unless prescribed, as these substances are harmful to health. It follows that welfare regulations clearly place an obligation on the state to increase its assistance in promoting the health of those individuals who are unable to pay for the expensive medical care needed to treat their illnesses. In light of the urgency and importance of the issue, the World Health Organisation designated Universal Health Coverage (UHC) as its top goal. Ensuring that everyone has access to necessary health services of adequate quality and is shielded from the financial burden of medical expenses is the goal of universal health coverage. In underdeveloped nations, financial security against medical expenses is just as important as access to healthcare.

1. Introduction

India began its quest for universal health coverage during the early years of its independence. By using tax revenue, the government directly funded the healthcare facilities. The government's efforts to supply sufficient health infrastructure and service workers fell short of their goals because of administrative roadblocks and insufficient funding [1]. Research revealed a few constraints for this situation, including a lack of finances, inadequate care quality, and few options for reasonably priced healthcare. In addition, the nation had to contend with the concomitant load of diseases and skyrocketing private health care expenses. Demand-side funding has become a useful technique for obtaining universal health coverage in developing nations due to the inadequacy of supply-side finance alone in providing accessible and cheap healthcare [3]. In addition to providing direct healthcare, the government has assumed the role of an intermediary, enabling individuals in need of medical care to obtain the required purchasing power [2]. In developing countries, health insurance as a policy began to spread as part of the demand side financing of healthcare. The impoverished and those who work for a daily income are particularly susceptible to the financial strain of medical expenses in India. The impoverished's out-of-pocket medical expenses have been demonstrated to have both short- and long-term effects. In the short term, the burden of paying for health care out of pocket drives impoverished households even further into poverty. Examples of this are the existence of medical poverty traps in underdeveloped nations. The burden of rising healthcare expenses has had a negative impact on India's impoverished population's usual spending habits. Policymakers have serious concerns about this. Ensuring financial protection from health care costs in India requires immediate action at the policy level [13].

In this case, the introduction is examined in section 1 of the article while the pertinent literature is examined in section 2. Section 3 and 4 explains the goal of the work, Section 5 shows the discussion of the work, and Section 6 concludes the project.

Literature Review

Numerous studies conducted in India have examined the effect of health insurance on financial protection, with varying degrees of success. [4] have demonstrated the advantages of government-funded health insurance in terms of access to healthcare and protection from the financial burden of out-of-pocket medical costs. Research by [14] statistically demonstrated that insured families in Andhra Pradesh and Karnataka had much lower shares of OOP than non-covered households. Andhra Pradesh's health insurance programme even noted a decline in the percentage of insured people who

experienced catastrophic medical costs. However, there are research that refute the advantages and demonstrate that there is no effect or a higher incidence of out-of-pocket medical expenses. The outcomes varied depending on the location, kind of health insurance, and period of time. Insured households have also claimed varying benefits from financial protection. According to [6], depending on where in Maharashtra a household had RSBY insurance, there were differences in the level of protection against out-of-pocket medical costs. Contrary to what is observed in urban regions, only among rural RSBY insured households in India did [16] exhibit statistically reduced proportions of medical expenses. Rural households also reported poor financial protection. Although various insured subgroups are not fully aware of the benefits of RSBY, research on publicly financed health insurance in India has suggested some possible advantages.

The ability of patients to select the health care provider of their choice is one of the characteristics of demand side health care financing policies [5]. In addition to offering free medical care, publicly sponsored health insurance plans also give patients access to a wider range of medical professionals via affiliated public and private hospitals [7]. This gives low-income households, who previously primarily relied on public health care, more options for medical care. The financial barriers to health treatment that impoverished households face are illustrated in [8]. The study also emphasised how important economic status is in influencing health care decisions in India. In contrast to households without insurance, RSBY insured households in Jharkhand utilised private health care facilities more frequently, as demonstrated by [9], whereas areas in West Bengal did not significantly differ in the preferences of covered and uninsured parties for private treatment [11]. Regardless of where they lived, [17] revealed that impoverished households with any kind of government insurance coverage used public hospitals more frequently [10]. There is room for modification in the selection of healthcare provider in light of these aspects of the publicly supported health insurance programme.

Patients' Rights Under The Indian Constitution

The right to healthcare and health are intertwined with the concept of patient rights under the Indian Constitution, as the primary entitlement of a patient is to be provided with access to healthcare. A patient's rights are those that apply to him or her in the event of illness, an accident, or any kind of injury. It is crucial to first establish the numerous rights of the patient in order to determine the extent to which their rights have been recognised under the Constitution. Patients' rights include access to healthcare, the right to give informed consent for treatment and medication, the right to privacy, the right to prompt treatment in an emergency, the right to refuse participation in projects involving human experimentation, research, or treatment, the right to obtain copies of medical records, the right to know what hospital policies and procedures apply to them as patients and what facilities they are available for, the right to know the specifics of the bill, and the right to seek a second opinion regarding their condition or course of treatment, among other rights [15].

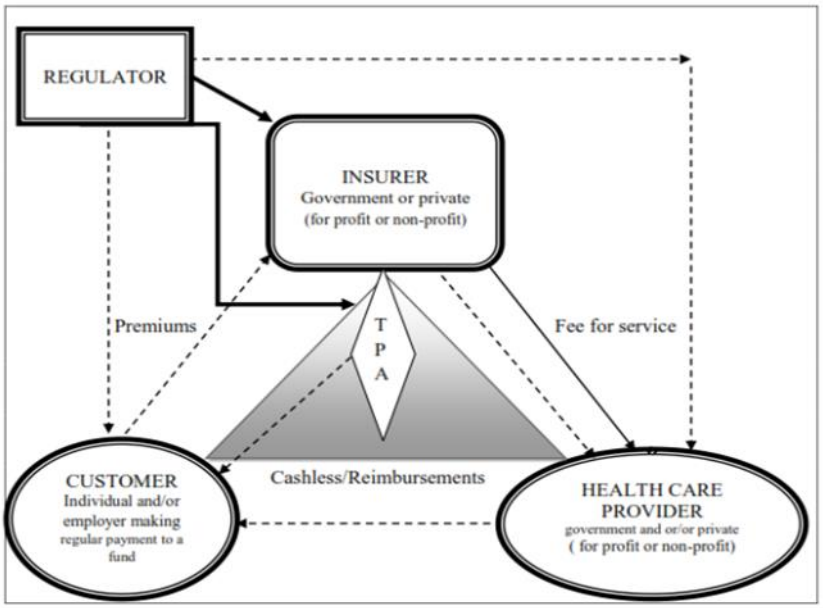

Figure 1. Structural Model of TPA

Everyone's health has been and should continue to be their top priority. The need for health insurance subscriptions is increased by the rising price of healthcare and the uncertainty around health risks. Therefore, it is imperative that you and your family purchase health insurance coverage as soon as possible because healthcare costs are rising, particularly in the private sector. Paying a small premium can prevent hospitalisation charges from destabilising finances and act as a stress reliever in the event of an emergency. India's health insurance market is expanding at a very rapid pace. Within the Non-Life Insurance sector, this industry exhibits significant potential for expansion. Since health insurance still needs to be embraced by a larger segment of the Indian people, the health sector is still in its infancy.

National Health Policies

Regulation is crucial in the provision of healthcare to humans. By virtue of their statutory regulations, different regulatory bodies offer a multitude of programmes for human welfare and health care as well as safeguard the public against various health risks. All areas of human health care are protected and supervised by these regulatory bodies. Commercial groups also uphold and enforce health care standards in addition to the federal and state governments. To make sure that these guidelines are followed and that everyone who enters the system receives safe healthcare, rules pertaining to health care are necessary. Health care regulatory agencies keep an eye on healthcare facilities and professionals, encourage safety, make sure the law is followed, and provide high-quality care. Enforced health laws and the legal system enable robust and unflappable healthcare systems. The legal area that deals with public health care, public health care delivery, and the effective management and operation of the health care system is known as human health care regulation [12]. Legislation governs every aspect of human health care, including methods, the creation of appropriate infrastructure, injustice, carelessness, duty-reflection, dishonest practices, quality standards, issues with occupational or environmental health, procreative health, professional conduct, and epidemic prevention, among other things. The primary objective of health care regulation is to guarantee that all people who utilise the human health care system receive safe and effective healthcare from medical experts and facilities. Thus, a system that ensures everyone's health protection, provides them with the care they require, and supports their capacity to keep their health through suitable housing, food, and environmental conditions is known as the human right to health. Healthcare services must be funded by the public and offered as a public good to all, equally.

Several laws have been passed in India to regulate healthcare and medical institutions, as well as to

protect and enhance public health in compliance with international agreements and declarations. The Indian Constitution, which is the ultimate law of the land, included several provisions for health preservation shortly after independence. When enacting national legislation, the State must adhere to the Directive principles outlined in Part IV of the Indian Constitution. The government of the nation depends on these ideas. The government of the nation depends on these ideas. The State is required by the Constitution's provisions in Articles 39, 42, 47, and 48 to protect, promote, acknowledge, and respect the health and well-being of the populace.

Declarations and codes of ethics impose mandatory, fundamental, and other obligations on the government, patients, and other parties, in addition to legislation controlling the medical industry. Medical malpractice is punishable by both criminal and civil law. Furthermore, the Consumer Protection Act now defines "service" to include medical malpractice, making the doctors' poor service liable.

Numerous laws, including the Bonded Labour System (Abolition) Act of 1976, the Mines Act of 1952, the Maternity Benefit Act of 1961, the Workmen's Compensation Act of 1923, the Child Labour (Prohibition and Regulation) Act of 1986, and others, are related to labour law and contain provisions for safeguarding workers' health. The judiciary has made an effort to interpret all of these laws in a way that will strengthen the labour laws through its rulings supporting workers' rights to health by placing a premium on their safety and protection. Aside from that, the Indian government has passed a number of other laws to protect its citizens, including the Environment Protection Act of 1986, the Medical Termination of Pregnancy (MTP) Act of 1971, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act of 1993, the Drugs and Cosmetics Act of 1840, the Drugs and Magic Remedies (Objectionable Advertisement) Act of 1954, the Mental Health Act of 1987, the Transplantation of Human Organs Act of 1994, etc. The judiciary has demonstrated utmost concern when interpreting all of these laws, regardless of gender.

2. Results and discussion

Increased use of pesticides, fossil fuels, dynamic agricultural and industrial structures, fast population growth, and rising urbanisation all contributed to environmental deterioration, which had a negative effect on people's health [12]. As a result, it became challenging for the healthcare systems and insurance to keep up with the needs and pace of healthcare access. Increasing the amount of healthcare insurance coverage through public, private, and voluntary health providers was difficult but absolutely necessary for the state and the centre. The most impoverished people were even poorer as a result of catastrophic health expenses, which were largely caused by a lack of health insurance. More Indians must obtain financial risk insurance to protect themselves from excessive out-of-pocket expenses, particularly in the private sector, which is a major contributor to the country's growing poverty rate.

Even though the Indian population is covered by government-sponsored programmes, private insurance, CGHS, ESIS, and/or other forms of insurance, the amount of coverage is still insufficient. In comparison to the urban sector, the rural sector has a considerably lower percentage of the population covered by health insurance. The lower prevalence of health insurance in India can be attributed to a number of factors, including poverty, illiteracy, lack of awareness, and ineffective government initiatives. The necessity of having health insurance penetration at a desirable level is shown by the prevalence of lifestyle diseases, an increase in the prevalence of non-communicable diseases in children compared to previous years, and the predominance of many infectious diseases in both rural and urban areas. Significant factors impacting the purchase of a health plan were the family size, cashless facilities, empanelled hospitals, lower income levels of the respondents, and the breadth of disease cost coverage. Expanding the health insurance net in India is desperately needed, which makes it crucial to research customer perception and awareness as well as to keep out-of-pocket costs to a minimum.

3. Conclusion and future scope

The public and private sectors coexist in the mixed economy that characterises the Indian economy. Deregulation and liberalisation have made it possible for international companies to join the health insurance market, dramatically altering the landscape of the industry. The entry of private players in the health insurance market brought with it a variety of plans to choose from, improved customer service, and began with massive advertising campaigns, thereby creating awareness and pointing towards the need of subscription towards health plans. This was necessary because the government lacked the resources for quality healthcare. New distribution channels, customer-focused methods, and elevated product innovation standards were introduced by private enterprises, opening up previously unexplored sectors. The penetration of health insurance is at a crossroads because it is crucial to decide on the best course of action going forward, even if the government runs numerous health insurance plans for lower socioeconomic groups and private enterprises for middle and upper middle socioeconomic groups. The sector faces significant obstacles as a result of shifting demographics, subpar public infrastructure and governance, a lack of funding, and a shortage of human capital.

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