

# ● DEMYSTIFYING INDIAN LAWS RELATING TO THIRD PARTY ADMINISTRATORS-HEALTH SERVICES



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## **Abstract**

*The Third Party Administrators (TPAs), as service providers, were introduced in 2001 in Indian insurance industry as a new efficient entity to ensure better quality services to insurers as well as to policyholders through proper regulation of health care services and its expenses. Earlier, TPAs were licensed by the IRDA to provide health services to policyholders by establishing network but in the year 2016 the earlier Regulation was repealed and the Insurance Regulatory and Development Authority (IRDA) made the IRDA (Third Party Administrators-Health Services) Regulations, 2016 which has incorporated many new concepts intended for strict compliance of statutory norms for having an effective and better environment beneficial for the insurers and policyholders. The present paper attempts to demystify the governing laws relating to TPAs with special reference to health services.*

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## **Key words**

*Insurance, Health Insurance, Third Party Administrator and IRDA.*

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## **I. INTRODUCTION**

*The presence of Third Party Administrator was aimed at ensuring higher efficiency, standardization and improving penetration of health insurance in the country. Third Party Administrators play an important role in standardization of charge and managing cashless services in health insurance.*

*- Competition Commission of India<sup>1</sup>*

The system of insurance was evolved as an effective tool to help individual/group financially in case of happening of insured event in exchange of their financial contribution to the insurer. Like other forms of insurance, the health insurance also provides an efficient mechanism for financing the health care needs and medical expenses of the people who contribute premiums to the insurer in compliance of their

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<sup>1</sup> *In re: V. Senthilnathan v. M/s. United India Insurance Co. Ltd.*, Case No. 27 of 2013, Competition Commission of India. (Decided on July 1, 2013)

contractual obligations. In true sense, the need of health insurance is felt by majority of the people because of growing costs of lifestyle diseases, changing disease pattern, medical inflation, increasing life expectancy and uncertainties in individual employability and earnings. In India, due to the deficient and inadequate healthcare services the nature of health insurance is complex which necessitated the introduction of the Third Party Administrators (TPAs), by the regulator of Indian insurance industry i.e. Insurance Regulatory and Development Authority of India (IRDA), who provide administrative services to insurance companies. The TPAs are intermediaries between the insurer and insured to facilitate cashless services at the time of hospitalization as well as processing of claims. Presently, there are only twenty-seven<sup>2</sup> TPAs in India. Recently, the IRDA, repealing the provisions of *IRDA (Third Party Administrators-Health Services) Regulations, 2001*, *IRDA (Third Party Administrators-Health Services) (First Amendment) Regulations, 2013* and *IRDA (Third Party Administrators-Health Services) (Second Amendment) Regulations, 2013*, has made the IRDA (Third Party Administrators-Health Services) Regulations, 2016 which came into force on March 14, 2016. The Regulations, 2016 has brought widespread curiosity in common people, health insurance policyholders and persons working in insurance industry including TPAs also.

## II. THIRD PARTY ADMINISTRATOR: ORIGIN, NEED & IMPORTANCE

The TPAs were introduced by the IRDA in the year 2001 to manage problems arising out of increasing health care expenses, to improve the processing of claims, to ensure better service delivery to the policyholders and to prevent the abuse of the health insurance system. They are registered with the IRDA and appointed by the concerned insurance companies to provide health services. The terms and conditions of TPAs are decided by the respective insurer and TPA. A TPA is authorised to provide health services to more than one insurer and similarly an insurer may also engage more than one TPA for providing health services to its policyholders or claimants. The TPA is defined as under:

Third Party Administrator means a company registered with the Authority, and engaged by an insurer, for a fee or remuneration, by whatever name called and as may be mentioned in the agreement, for providing health services as mentioned under these Regulations<sup>3</sup>.

Thus, it is evident from the above definition that the TPA is an independent organisation which is registered with IRDA and appointed by the insurance company to provide

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<sup>2</sup>As on 21<sup>st</sup> July, 2016: 1. United Healthcare Parekh TPA Pvt. Ltd., 2. Medi Assist India TPA Pvt. Ltd., 3. MD India Healthcare (TPA) Services (Pvt.) Ltd., 4. Paramount Health Services & Insurance TPA Pvt. Ltd., 5. E Meditek (TPA) Services Ltd., 6. Heritage Health TPA Pvt. Ltd., 7. Focus Health services TPA Pvt. Ltd., 8. Medicare TPA Services (I) Pvt. Ltd., 9. Family Health Plan (TPA) Ltd., 10. Raksha TPA Pvt. Ltd., 11. Vidal Health TPA Private Limited, 12. Anyuta TPA in Healthcare Pvt. Ltd., 13. East West Assist TPA Pvt. Ltd., 14. Med Save Health Care TPA Ltd., 15. Genins India Insurance TPA Ltd., 16. Alankit Insurance TPA Limited, 17. Health India TPA Services Private Limited, 18. Good Health TPA Services Ltd., 19. Vipul Med Corp TPA. Pvt. Ltd., 20. Park Mediclaim TPA Private Ltd., 21. Safeway Insurance TPA Pvt. Ltd, 22. Anmol Medicare TPA Ltd., 23. Dedicated Healthcare Services TPA (India) Private Limited, 24. Grand Health Care TPA Services Private Limited, 25. Rothshield Healthcare (TPA) Services Limited, 26. Ericson Insurance TPA Pvt. Ltd., and 27. Health Insurance TPA of India Ltd.

<sup>3</sup>Regulation 2 (1) (m) of the IRDA (Third Party Administrators-Health Services) Regulations, 2016.



health services as a link between insurance company and policyholder. For such services, the concerned TPA is provided fee or remuneration by the insurer. The insurance policies are issued by the insurance companies and serviced by the TPA, as a facilitator. The health services which are provided by a TPA are contained in Regulation 3 under an agreement in connection with 'health insurance business'<sup>4</sup> as under-

- (a) servicing of claims under health insurance policies by way of pre-authorization of cashless treatment or settlement of claims other than cashless claims or both, as per the underlying terms and conditions of the respective policy and within the framework of the guidelines issued by the insurers for settlement of claims.
- (b) servicing of claims for hospitalization cover, if any, under Personal Accident Policy and domestic travel policy.
- (c) facilitating carrying out of pre-insurance medical examinations in connection with underwriting of health insurance policies. The TPA is authorised to extend this service for life insurance policies also.
- (d) health services matters of foreign travel policies and health policies issued by Indian insurers covering medical treatment or hospitalization outside India.
- (e) servicing of health services matters of foreign travel policies issued by foreign insurers for policyholders who are travelling to India. Such services shall be restricted to the health services required to be attended to during the course of the visit or the stay of the policyholders in India.
- (f) servicing of non-insurance healthcare schemes.
- (g) any other services as may be mentioned by the IRDA.

But, a TPA, while performing the health services as indicated above, is not authorised to-

- (a) directly make payment in respect of claims;
- (b) reject or repudiate any of the claims directly;
- (c) handle or service claims other than hospitalization cover under a personal accident policy;
- (d) procure or solicit insurance business directly or indirectly; and
- (e) offer any service directly to the policyholder or insured or to any other person unless such service is in accordance with the terms and conditions of the policy contract and the agreement entered into in terms of these regulations.

The TPA has an important place in the field of health insurance by providing hospitalization services, cashless access services, billing services and call center services. The TPA enters into a memorandum of understanding with individual hospitals and medical aid providers to facilitate the cashless hospitalization. The Competition Commission of India, mentioning the role of TPAs, observed that the primary role of the TPAs has been to provide services to the policyholders of the different insurance companies licensed by IRDA by processing their insurance claims and

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<sup>4</sup> Section 2 (6C) of the Insurance Act, 1938: 'Health insurance business' means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether in-patient or out-patient travel cover and personal accident cover.

providing cashless and non-cashless facility to the insured by negotiating with the hospitals/nursing homes that render health care services and facilities in India. The TPAs are paid a fee negotiated with the insurers at certain percentage of the insurance premium and in certain cases on per member or per service basis. The introduction of TPAs as authorized entities in the health care service chain was done with a view to ensure higher efficiency, standardization, providing cashless healthcare services to policyholders and increasing penetration of health insurance in the country. They are also potentially equipped to play a wider role in standardization of charges for various treatments and procedures, benefit management, medical management, provide network management, claim administration and maintaining a database of health insurance policies<sup>5</sup>.

### **III. THIRD PARTY ADMINISTRATOR: REGISTRATION, FUNCTIONS AND ROLE**

To start or carry out the business of rendering health services as a TPA, a person or entity must be compulsorily registered with IRDA whose main and sole objective is to exclusively carry on the business of providing health services. The Regulations, 2016 tightening the norms for TPAs provide that a TPA is not allowed to engage itself in any other business. The Regulations have mandated to use 'Insurance TPA' in the name of TPA/applicant to reflect that it is engaged or proposes to engage in the business of TPA for rendering health services. At the same time, the insurers are also mandated not to engage any entity/person to carry out the business of TPA who does not hold a valid certificate of registration as TPA.

#### **Eligibility**

The Regulations, 2016 provides that only a company registered under the Companies Act, 2013 can function as a TPA which has to maintain the minimum paid up equity share capital of not less than rupees four crores. For the TPAs registered in earlier Regulations of 2001 this stipulation has to be complied with within one year from the date of notification of these regulations. Every registered TPA has to maintain a 'working capital' of not less than rupees one crore. The 'working capital' means the difference between the aggregate of the current assets and current liabilities as on the date of reckoning. The foreign investments in the TPA is not restricted but it has to comply with the policy and rules framed in this regard by Government of India and any regulations, guidelines or instructions issued by the IRDA.

- (a) the applicant has the words "Insurance TPA" in its name;
- (b) the applicant has complied with the minimum capital requirements;
- (c) the promoters of the applicant have the financial strength to carry out the business of TPA;
- (d) at least one of the directors of a TPA holds a minimum qualification of MBBS, with a valid registration from the Medical Council of India or Medical Council of any State

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<sup>5</sup> *Association of Third Party Administrators v. General Insurers (Public Sector) Association of India*, Case No. 49/2010 Competition Commission of India. (Decided on July 12, 2011)



- of India and is thereby entitled to practice medicine within its jurisdiction and is acting within the scope and jurisdiction of his/her registration;
- (e) the applicant or its promoters or its directors are not suffering from any of the disqualifications;<sup>6</sup>
  - (f) the applicant has the necessary infrastructure such as adequate office space, equipment and trained manpower to effectively discharge its functions;
  - (g) the applicant has employed at least one person who has the necessary qualifications in respect of qualification, training and passing of prescribed examination and has adequate experience to conduct the business of TPA;
  - (h) the Chief Executive Officer (CEO) or a Chief Administrative Officer (CAO) and a Chief Medical Officer (CMO) of the applicant fulfils the fit and proper criteria in respect of qualification, training and passing of prescribed examination;
  - (i) the applicant has sufficient reach with Network Hospitals and Information Technology capability;
  - (j) the applicant has necessary in-house medical expertise in addition to the regulatory stipulation of at least one Director having the stipulated medical qualification; and
  - (k) any other requirements that the IRDA may consider necessary for grant of Certificate of Registration to the TPA.

The IRDA may require an applicant to furnish any further information or data or clarifications in addition to directing the applicant to comply with certain additional requirements for the purpose of consideration of the application and accordingly the applicant shall furnish the information or comply with the directions within given time. It is pertinent to note here that after submission of application for registration the applicant cannot change the structure, composition and other aspects of the applicant company which may have a bearing on decision for grant of TPA registration, without prior approval of the IRDA.

On examination of the application and details furnished by the applicant, where the IRDA is satisfied that the applicant company fulfills all the requirements it issues the

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<sup>6</sup> Section 42D (5) of the Insurance Act: The disqualifications above referred are as- (a) that the person is a minor; (b) that he is found to be a unsound mind by a court of competent jurisdiction; (c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a court of competent jurisdiction: Provided that, where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause; (d) that in the course of any judicial proceedings relating to any policy of insurance of the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud dishonestly or misrepresentation against an insurer or an insured; (e) that he does not possess the requisite qualifications and practical training for a period not exceeding twelve months, as may be specified by the regulations made by the Authority in this behalf; (f) that he has not passed such examinations as may be specified by the regulations made by the Authority in this behalf; (g) that he violates the code of conduct as may be specified by the regulations made by the IRDA.

certificate of registration on payment of a further sum of Rs. 30,000/- (Rupees Thirty Thousand only) and applicable service tax to the IRDA as registration fee. A Certificate of Registration granted by the IRDA to a TPA or any renewal thereof is valid for a period of three years as indicated in the Certificate of Registration, unless the IRDA decides to revoke, suspend or cancel the Certificate of Registration in accordance with these regulations. The TPA which has been granted Certificate of Registration is under obligation to commence its business operations within twelve months from the date of grant of Certificate of Registration. Further, every registered TPA has to display and be identified in public domain by the name with which it is registered, IRDA registration number, validity period of the Certificate of Registration, address of the Registered and Corporate Office and the insurers it is representing.

But, on examination of the application as mentioned above, if the IRDA finds that the application and other requirements are not complied with, it may refuse grant of Certificate of Registration to an applicant after providing the applicant a reasonable opportunity of being heard. The order of refusal is communicated to the applicant by IRDA in writing indicating reasons for such decision and the applicant whose application has been refused cannot submit a fresh application to IRDA, for a period of two years from the date of such refusal, for grant of Certificate of Registration as a TPA.

If the Certificate of Registration of a TPA is destroyed, lost or mutilated it can apply to IRDA with a processing fee of Rs. 2,000/- (Rupees Two thousand only) and service tax for issue of duplicate Certificate of Registration. After being satisfied with the application, the IRDA may issue a duplicate Certificate of Registration to the TPA.

### **Renewal of Certificate of Registration**

For renewal of the Certificate of Registration, the concerned TPA has to make application to IRDA accompanied by prescribed documents, a non-refundable renewal processing fee of Rs.15,000/- (Rupees Fifteen Thousand only) and service tax not earlier than 180 days and not later than 30 days before the date on which the Certificate of Registration ceases to be valid. If the application is made after prescribed time, an additional fee of Rs. 100/- (Rupees One Hundred only) has to be paid. But, where the application is made after expiry of the validity of Certificate of Registration, the IRDA may, if satisfied that undue hardship would be caused otherwise, accept the application on payment of a penalty of Rs. 750 (Rupees seven hundred and fifty only) and service tax. The non-compliance with minimum business requirements may result in non-renewal of Certificate. In respect of renewal the IRDA may call for additional information, clarifications or data as deemed necessary. When the IRDA is satisfied that the concerned TPA fulfils all the conditions required for renewal of the Certificate of Registration and there are no reasons for denial of renewal, it renews the Certificate of Registration for further period of three years.

### **Surrender of Certificate of Registration**

Where a TPA applies to IRDA to voluntarily surrender its Certificate of Registration stating the reasons for surrender with required documents, the IRDA may consider such application on merits and subject to such conditions as it may deem fit to impose. When the IRDA is satisfied with the reason for surrender, it may pass an order agreeing to the surrender of registration by the TPA. Such order shall be displayed on the website of the IRDA for information of general public and the insurance companies for necessary action.



## **Revocation, Suspension, Cancellation or Denial of Renewal of Certificate of Registration**

The Certificate of Registration issued by the IRDA may be revoked, suspended, canceled or denied the renewal stating clearly the reasons, if the IRDA is satisfied after providing a reasonable opportunity of being heard to the TPA that-

- (a) the TPA is functioning in a manner detrimental to the interests of the insured, policyholder or insurer.
- (b) the financial condition of the TPA has deteriorated because of which the TPA cannot function effectively.
- (c) the character, constitution and ownership of the TPA has changed significantly since the grant of Certificate of Registration.
- (d) the TPA furnished wrong or false information or undertaking or willfully concealed or failed to disclose material facts in the application for obtaining a Certificate of Registration or renewal of Certificate of Registration and such Certificate of Registration or renewal was granted to the TPA on the basis of non-disclosure, misrepresentation of facts or fraud.
- (e) the TPA is under liquidation or is adjudged as being insolvent.
- (f) the TPA has violated or failed to comply with these regulations or any other provisions of the Insurance Act, 1938, Insurance Regulatory and Development Authority Act, 1999 or rules, regulations, guidelines or circulars issued by the Authority.
- (g) the TPA failed to furnish information relating to its business as a TPA or failed to submit periodical returns as required by the IRDA.
- (h) the TPA did not co-operate with any inspection, audit or enquiry conducted by the IRDA;
- (i) the TPA failed to resolve the complaints of the policyholders or network providers or failed to give a satisfactory reply to the IRDA in this behalf.
- (j) the TPA is found guilty of misconduct or its conduct is not in accordance with the Code of Conduct mentioned in these regulations.
- (k) the TPA failed to maintain minimum capital or working capital requirements.
- (l) the TPA failed to pay to the IRDA the fees, penalties imposed or the reimbursement of expenses under these regulations.
- (m) the TPA violated the conditions, if any, imposed at the time of issuance of Certificate of Registration or renewal of Registration.
- (n) the TPA did not carry out its obligations as mentioned in the regulations.
- (o) the CEO/CAO/CMO does not fulfill the required norms though the TPA is otherwise compliant;
- (p) the TPA has been set up only to divert or siphon off the funds within a group of companies or their associates.
- (q) the TPA has failed to furnish additional information or clarifications called for by the IRDA within the time laid down, in connection with the application for renewal of TPA registration.

But, in the following circumstances the IRDA may revoke or suspend the Certificate of Registration without notice if the TPA-

- (a) violates any one or more of the requirements under the Code of Conduct;
- (b) is found to be guilty of fraud or is convicted of a criminal offence;
- (c) commits such defaults which require immediate action in the opinion of the IRDA; and
- (d) has not commenced business within twelve months from the date of Certificate of Registration.

In above mentioned circumstances, the Certificate of Registration so revoked or suspended shall not be cancelled by the IRDA unless an enquiry is conducted and the TPA has been given a reasonable opportunity of being heard. The order of revocation, suspension or cancellation or denial of renewal of the Certificate of Registration shall be displayed on the website of the IRDA for information of general public and the insurance companies for necessary action.

The effects of revocation, suspension, cancellation, voluntary surrender of the Certificate of Registration or denial of renewal of Certificate of Registration of TPA are as under-

- (a) On and from the date of the order issued by the IRDA, of revocation, cancellation, suspension or voluntary surrender of the certificate of registration, or denial of renewal of Certificate of Registration, the TPA shall cease to do the business of TPA unless mentioned otherwise in the order.
- (b) The TPA shall forthwith inform the insurer for taking alternative steps such as appointment of another TPA or undertaking of the servicing of the affected policies as may be necessary, immediately, to continue to cater to the insured or policyholders serviced by the TPA.
- (c) The TPA shall immediately handover to the concerned insurer all the books, information, records or documents etc. and the complete data collected by it relating to the business carried on by it with regard to such insurer.
- (d) On publication of the order, where an insurer, approaches the TPA for return of the above referred information or records, the TPA shall render all cooperation and assistance to the insurer.
- (e) A TPA which renders non-insurance services relating to any of the health schemes shall immediately notify the order issued by the IRDA to the concerned Central or State Governments.
- (f) Where TPA renders the health services of the foreign insurers to their respective policyholders visiting India, it shall immediately notify the order issued by the IRDA to all such foreign insurers to whom the TPA services were rendered in the preceding three financial years.
- (g) No insurer shall permit a TPA whose Certificate of Registration is revoked, suspended or cancelled or which has been denied renewal of Certificate of Registration to render health services to their policyholders in foreign countries.
- (h) Where a Certificate of Registration of a TPA is revoked or cancelled or where the TPA is denied renewal or where the TPA voluntarily surrenders Certificate of Registration, the company shall not carry the words "Insurance TPA" in its name.



## IV. OBLIGATIONS OF TPA

Every TPA has the following obligations to adhere-

### Appointment of Officials

Every TPA has to appoint a CEO or a CAO and a CMO. The TPA, from amongst its directors or senior employees, may appoint a CEO/CAO who possesses the following qualifications-

- (a) a bachelor's degree from a recognised University and
- (b) a pass in the Associateship examination conducted by the Insurance Institute of India or such equivalent examination as may be recognised and specified by the IRDA and
- (c) completion of training with an institution recognised by the IRDA for these purposes.

The CEO/CAO shall be responsible for the day-to-day administration of the affairs of the TPA and for ensuring compliance of regulatory requirements.

Additionally, a CMO has also to be appointed by every TPA who holds the minimum qualification of MBBS, a valid registration from the Medical Council of India or Medical Council of any State of India being thereby entitled to practice medicine within its jurisdiction and is acting within the scope and jurisdiction of such registration. The CMO should be a full time employee of the TPA. The respective TPA has to intimate regarding the appointment of CEO/CAO/CMO to the IRDA within thirty days of the date of their appointment.

### Maintenance of Minimum Business Requirements

Every registered TPA has to comply with minimum business norms towards health services for the insurers as has been specified by the IRDA. The Minimum Business Requirements are applicable to all the TPAs registered from 01st April, 2016 and the TPA companies registered under earlier Regulations have to comply with these norms from 01st April, 2016 onwards. In compliance of the Regulations, 2016 the IRDA issued a Circular<sup>7</sup> detailing the following Minimum Business Requirements to be fulfilled by every registered TPA during each financial year-

Number of Financial Years Completed since 01-04-2016 or date of granting the Certificate of Registration, whichever is later	Number of policies serviced Parameter- 1	Number of Lives serviced Parameter- 2
Second Year	2500	5000
Third Year	5000	10000
Fourth Year to Sixth Year	10000	25000
From Seventh Year onwards	15000	50000

<sup>7</sup> Circular Reference No. IRDA/TPA/REG/CIR/059/03/2016 dtd. 28.03.2016, available at: [http://www.dhc.co.in/uploadedfile/1/2/1/Circular%20as%20per%20provisions%20of%20IRDA%20\(TPA%20Health%20Services\)%20Reg%202016.pdf](http://www.dhc.co.in/uploadedfile/1/2/1/Circular%20as%20per%20provisions%20of%20IRDA%20(TPA%20Health%20Services)%20Reg%202016.pdf)

If the TPA is exclusively servicing Group Health Insurance Policies, it has to fulfill twice the number of policies prescribed under Parameter-1 as an additional number of lives in the respective years in addition to those prescribed under Parameter- 2. For such TPA, the norms prescribed under Parameter-1 are not applicable. The TPA which intends to exclusively service Group Policies it has to inform the IRDA at the commencement of the Financial Year. Every TPA's endeavor should be to enter into Health Services Agreement with at least two insurers during second and third years of business, a minimum of three insurers during fourth to sixth year of business and a minimum of four insurers from seventh year onwards.

### **Maintenance of Books of Account etc.**

Every TPA has been mandated to maintain proper records, documents, evidence and books of all transactions carried out by it on behalf of an insurer. The maintenance of books and accounting records have to be done in accordance with the provisions of the Companies Act, 2013. These records, documents, evidence, books etc. and any information contained therein have to be made available to the insurer, the IRDA or to such person appointed by the IRDA for investigation into or inspection of the functions of the TPA. In maintaining these records, the TPA follows strictly the professional confidentiality between the parties as required except certain circumstances where the TPA may be bound to disclose the relevant information relating to its business to any Court of Law, Tribunal, the Government or the IRDA in case any investigation is carried out or is proposed to be carried out against the insurer, TPA or any other person or for any other reason. Every TPA and insurer has to establish electronic systems for seamless flow of data for all the claims and shall follow standards and protocols for capture of data. The Annual Report duly certified by one of the Directors of TPA and the CAO/CEO is submitted to the IRDA within a period of ninety days after the close of each financial year. Additionally, every TPA has-

- (a) to submit or handover all the files, data and other related information pertaining to the settlement of claims to the respective insurers on a quarterly basis within fifteen days after the close of each quarter and the insurer shall accept the same under acknowledgement.
- (b) not to share the data and personal information received by it for servicing of insurance policies or claims thereon except as mentioned above.
- (c) to furnish to the insurer and the IRDA an annual report and any other return of its activities.
- (d) to file periodical information to the IRDA relating to claims data.
- (e) to furnish declarations and undertakings in such form and at periodicity.

### **Adherence to Code of Conduct**

Every TPA is under legal obligation to act in the best professional manner and abide by the code of conduct. It is the duty of every TPA, its CAO or CEO, CMO and its employees or representatives to-

- establish their identity to the insured, claimant, policyholder and that of the insurer with which it has entered into an agreement, other entities and the public.
- disclose its certificate of registration on demand to the insured, policyholder,



claimant, prospect, public or to any other entity relating to the services under a policy issued by an insurer.

- disclose on demand to the insured, policyholder, claimant, prospect, public or to any other entity the details of the services it is authorized to render in respect of health insurance products under an agreement with an insurer.
- bring to the notice of the insurer with whom it has an agreement, any adverse report or inconsistencies or any material fact that is relevant for the insurer.
- obtain all the requisite documents pertaining to the examination of an insurance claim arising out of an insurance contract.
- render such assistance as mentioned under the agreement and advice to policyholders or claimants or beneficiaries to comply with the requirements for settlement of claims with the insurer.
- conduct itself or himself in a courteous and professional manner.
- refrain from acting in a manner which may influence, either directly or indirectly, the insured or policyholder of a particular insurer to migrate from one insurer to another.
- refrain from dissuading or discouraging policyholder from approaching specific hospital of his / her choice or persuade or encourage the policy holder to approach any specific hospitals which are in their Network, other than offering advice and guidance when specifically sought for.
- have effective grievance management systems in place.
- ensure to resolve the grievances of policyholders within fifteen days of receipt of the same.
- ensure to resolve the grievances or disputes with hospitals or network providers expeditiously and ensure that the policyholder is not adversely affected due to such disputes.
- refrain from trading on information and records of its business except for sharing of the same as permitted.
- maintain the confidentiality of the data collected by it and not share the same except as provided in these Regulations.
- refrain from issuing advertisements of its business or the services carried out by it on behalf of a particular insurer, without prior written approval of the insurer. Provided that a TPA can issue advertisement about the activities or the services carried out by it, for publicity or promoting public awareness. Provided further that, as part of its Corporate Social Responsibility, a TPA may promote the need for and benefits of health insurance in general without specifically referring to any insurer, insurance policy, network provider or hospital.
- refrain from inducing an insured, policyholder, network provider to omit any material information or submit wrong information.
- refrain from demanding or receiving a share of the proceeds or a part of the claim amount from the policy holder, claimant, network provider.
- comply with the regulations, circulars, guidelines and directions.

- not lend or grant any loan to any other company, entity or individual not connected with its TPA business. However, this does not prevent a TPA from granting any loans or temporary advances either on hypothecation of property or on personal security or otherwise, as part of the benefits to the fulltime employees of the TPA as per the scheme duly approved by its Board of Directors.
- not submit any wrong, incorrect, misleading data or information or undertaking to the IRDA or to the insurer or to any other stake holder of the TPA business.
- not accept any kind of incentives other than the remuneration agreed towards service fees or any inducement for maintaining low claims ratio.
- not to outsource the job of servicing of those insurance policies for which he is appointed as TPA to any other registered entity including TPA or unregistered entity.
- not remit any sum including the claim amount whether directly or indirectly either to a policyholder, claimant, Network Provider or any other hospital. A TPA shall not maintain any float fund account or any other account with any other nomenclature for payment of insurance claims on behalf of insurer. Provided that, with respect to servicing of foreign travel policies issued by foreign insurers, a TPA can make claim payment based on a valid and written agreement in this regard with such foreign insurers.
- not publish on its website any incorrect or misleading information or display any content or matter which is not in line with these regulations.
- no claim is concurred or disputed by a medical practitioner unless he is from the same stream of medicine relating to which the treatment was provided and claim is preferred.
- abide by the Corporate Governance guidelines pertaining to TPAs as issued by the IRDA.
- shall disclose on demand, the fee received for servicing of health insurance policy to the policy holder, insured or claimant.
- follow claim guidelines as issued by insurers from time to time.
- ensure that at no point of time contact numbers of a TPA like phone number, toll free number as published or provided to policy holders shall be out of service or closed. Further, any change in details referred herein shall be notified suitably to all the policyholders within seven days of such change.
- disclose the list of network hospitals with whom it has valid agreement to policy holders, prospects and general public. Further, any change in details referred herein shall be notified suitably to all the policyholders within seven days of such change.
- have systems in place for assisting the policyholder or claimant during hospitalization with respect to concerned health insurance policy terms and conditions and services for cashless facility.
- abide by the timelines for rendering health services and shall make public disclosures on their websites or disseminate information through call centers.
- clearly explain cashless service procedures at hospitals and also on their website and through call centers.



- communicate promptly to the claimant under intimation to the insurer concerned about any delay which is unavoidable or owing to the customer or hospital.
- have systems in place to identify, monitor, control and deal with fraud including hospital abuse, by various agencies including healthcare providers.
- put in place systems and internal processes for detection of fraud and its mitigation, delineate and disseminate information on fraudulent cases to the concerned insurer within three days of detection and submit such information on fraudulent claims as directed by the IRDA.

Further, the Code stipulates that the director(s), promoter(s), shareholder(s), CAO, CEO, CMO and Key managerial person(s) of a TPA shall not engage directly or indirectly in any other insurance or insurance related activities that may lead to conflict of interest.

## V. ROLE OF IRDA

The IRDA, being the regulator of the Indian insurance industry, has various roles in respect of TPAs also which may be summarized as under-

### Direction to Terminate the Services of CEO/CAO/CMO

As mentioned above, when the information of appointment of CEO/CAO/CMO is furnished by the TPA the IRDA may direct the TPA to terminate their services. The direction issued by the IRDA should be accompanied with the reasons in writing. It is important to note here that before issuing such direction, the IRDA gives the TPA an opportunity of being heard.

### Appointment of Inspecting Authority

The IRDA has power to appoint one or more of its officers as 'Inspecting Authority', with or without prior notice, regarding inspection of books of accounts, records and documents of the TPA for any of the following purposes-

- to ensure that the statutory books or books of account are being maintained in the manner as required or
- to ensure that the provisions of the Act, rules, regulations, guidelines, circulars, advisories are being complied with or
- to inspect the complaints received from any insured, any insurer, other TPA or any other person on any matter having a bearing on the activities of the TPA or
- to inspect the affairs of the TPA *suo motu* in the interest of proper development of TPA business or in policyholders' interests.

The officers and employees of the TPA are duty bound to make available the books of account, statements, documents, etc. for inspection and copies of all contracts entered into with the insurers. The failure to furnish any document, statement, return, etc. to the IRDA is construed as a non-compliance of the Regulations, 2016.

### Issuance of Clarifications, Circulars, Guidelines, Instructions

The Chairperson of the IRDA has authority to issue appropriate clarifications or guidelines as deemed necessary in order to remove any doubts or the difficulties that may arise in the application or interpretation of any of the provisions of the Regulations,

2016. Further, under these regulations, the IRDA has been authorised to specify by issue of Circulars, Guidelines or Instructions in respect of the following-

- Format of application for Grant of Fresh Certificate of Registration to TPA along with list of documents to be submitted and procedural requirements for obtaining Fresh TPA Registration.
- List of documents to be submitted along with Form TPA - 1 and Procedural requirements for obtaining Fresh TPA Registration.
- Format for Certificate of Registration.
- Declaration and Undertaking w.r.t. fit & proper criteria.
- Form for Intimation of appointment or change in Director, Chief Executive Officer or Chief Administrative Officer, Chief Medical Officer.
- Application for issue of Duplicate Certificate of Registration.
- Format for Duplicate Certificate of Registration.
- Application for Change in Shareholding Pattern.
- List of documents to be submitted for consideration of application for transfer of ownership or change in shareholding pattern.
- Quarterly return for Status of Shareholding Pattern of a TPA Company.
- Minimum Business Requirements for TPAs.
- Application for Renewal of Certificate of Registration.
- List of documents to be attached with the Application for Renewal of TPA Registration.
- Format for Certificate of Renewal of TPA Registration.
- List of documents to be submitted along with application for Voluntary Surrender of TPA Registration.
- Schedule of apportionment of expenses.
- Schedule of Income or Remuneration received by TPA.
- Form and Formats for Annual Report to be submitted by TPAs.
- Format for Monthly and Cumulative Claims data for TPAs.
- Annual Certificate in the matter of Working Capital of a TPA Company.
- Annual Declaration and Undertaking by TPA Company.
- Quarterly Form for Service Level Agreement Details.
- Minimum Standard clauses in agreement between Insurer & TPAs.
- Periodical returns - Quarterly information on non-insurance health schemes.
- Stipulations in the matter of Non Insurance Services under Health Care Schemes.
- Format for quarterly Information on services rendered in Indian or in foreign jurisdictions for policies issued by Indian Insurers.
- Format for quarterly Information on health services rendered to foreign travel policies issued by Foreign Insurers.
- Corporate Governance norms for TPAs.



- Form for intimation of opening and closing of the branches or change in office address.
- Any other matter which is required to be specified by the IRDA under these regulations.

## VI. BUSINESS OF TPA

As TPAs' business is to provide health services to the policyholders, it has to enter into Health Services Agreement<sup>8</sup> with insurers as well as network providers. The term 'network provider' means hospital or health care provider enlisted by an insurer, TPA or jointly by an insurer and TPA to provide medical services to an insured either on payment or by a cashless facility<sup>9</sup>. Further, the 'cashless facility' is defined as a facility extended by an insurer to an insured where the payment of the costs of treatment undergone by the insured in accordance with the policy terms and conditions is directly made to the network provider by the insurer to the extent of approved pre-authorization<sup>10</sup>.

A TPA enters into an agreement, for providing the defined health services, with an insurer and network provider, covering hospitalization benefits within India, issued by an Indian insurer. It has to ensure that the agreement is enforceable at all times. The agreement defines the scope of the agreement, the health and related services that may be provided by the TPA in addition to the following clauses-

- its termination by either party on mutual consent or on grounds of any fraud, misrepresentation, deficiency of services or other non-compliance or default. However, there shall be no clause in the Agreement which shall dilute, restrict or otherwise modify the regulatory stipulations mentioned by the IRDA in respect of policyholders' interests, protection, service standards and turn-around-time parameters.
- prescribing the minimum Turn Around Time envisaged for rendering various policy services stipulated in the terms and conditions of the policy contract but it cannot exceed the minimum norms prescribed in any of the regulatory requirements.
- the remuneration payable to the TPA by an Insurer.

The TPA is under duty to file details of the agreement entered into between the TPA, insurer, Network Provider or any modification thereof to the IRDA. The remuneration of the TPA shall be based on the health services rendered to the insurer only and insurers are prohibited to pay any remuneration related to the product, linking to the claims experience or the reduction of claim costs or loss ratios. The TPA cannot charge any fees in any form or in any manner from the policyholders or network providers for the health services rendered under these Regulations.

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<sup>8</sup>Regulation 2 (1) (i) of the IRDA (Third Party Administrators - Health Services) Regulations, 2016: 'Health Services Agreement' means an agreement prescribing the terms and conditions of services which may be rendered to the holders of health insurance policies of any insurer and may be entered into between-

- a Third Party Administrator (TPA) and an insurer or
- a Network provider and an insurer or
- a Network provider, a TPA and the insurer.

<sup>9</sup>Regulation 2 (1) (k) of the IRDA (Third Party Administrators - Health Services) Regulations, 2016.

<sup>10</sup> *Id.* at Regulation 2 (1) (f).

If there is any change in TPA by the insurer, all the policyholders should be communicated thirty days before giving effect to the change. The contact details like helpline numbers, addresses etc. of a new TPA should be immediately made available to all the policyholders in case of change of TPA. Further, the insurer has to take over all the data in respect of the policies serviced by the earlier TPA and make sure that the same is transferred seamlessly to the newly assigned TPA, if any. It shall be ensured that no inconvenience or hardship is caused to the policyholder as a result of the change. In this respect, the following aspects should be taken into consideration-

- i. Status of cases where pre-authorization has already been issued by existing TPA.
- ii. Status of cases where claim documents have been submitted to the existing TPA for processing.
- iii. Status of claims where processing has been completed by the existing TPA and payment is pending with the insurer.

Next, it has been provided that if any discount is received or agreed to be received from the hospital towards health services, such discount must be passed on to the policyholder or the claimant of the concerned health insurance policy. In order to implement the above norms, every insurer and the TPA has to put in place the following procedures which are applicable to both cashless services and reimbursements of all the claims of health insurance policies-

- (i) The insurers and TPAs shall mandate the hospitals to reflect such agreed discounts in the final hospitalization bill of each claim, by which the policyholder or the claimant can also be aware of the actual bill raised by the hospital.
- (ii) Where the admissible claim amount is more than the Sum Insured, the agreed discount shall be effected on the Gross amount raised in the bill, before letting the policyholder or the claimant bear the costs over and above the eligible claim amounts.
- (iii) Where the underlying health insurance policies have co-payment or the deductible conditions, the insurer or TPA shall ensure that the said co-payment or deductible is effected only after netting off the discounts offered by the hospital, if any.

The TPA is mandated to have in place the necessary infrastructure to extend the health services as required to the policyholders at all times and the TPA and the insurer are responsible for the proper and prompt service to the policyholder at all times. The TPA may admit claims, authorize cashless facility and recommend to the insurer for the payment of the claim which shall be in line with the detailed claims guidelines issued to TPA by the insurers for the particular product. It shall endeavor to collect all documents pertaining to the claims reported in electronic mode for seamless processing and for recommending to the insurer for payment or rejection as the case may be. In respect of settlement of the claims, the TPA has to adopt the following procedure-

- (i) In case of admissible claim, full or partial, in the communication addressed to the policyholder or claimant, the TPA is required to state clearly the following-
  - (a) "Your claim bearing No <Claim No> against policy issued by <name of the insurer> has been settled for Rs <Amt Paid> against the Amount Claimed for Rs <Claimed Amount> towards Medical Expenses incurred for treatment of <name of the Ailment> at <Name and City of the Hospital> for the period from <Date of Admission> to <Date of Discharge>".



- (b) The granular details of the payments made, amounts disallowed and the reasons there for.
- (c) The details of (i) Grievance Redressal Procedure in place with the insurer (ii) Contact details of concerned Grievance Redressal Office and officer (iii) Procedure to be followed for approaching Insurance Ombudsman in case the policyholder or claimant is not satisfied with the resolution provided by the insurer (iv) Contact details of office of Insurance Ombudsman.

The above details shall be mandatorily included in the communication to the policyholder or claimant in every case where the TPA has disallowed any part of the claim.

- (ii) In case of inadmissibility of the entire claim, the TPA on its own shall not reject or repudiate the claim and the decision and the communication with respect to rejection or repudiation of claim shall be sent only by the concerned insurer directly to the Policyholder or the claimant.

The TPAs are authorised for servicing of foreign travel policies after obtaining approvals under various other applicable laws and other relevant framework in India. Before servicing the foreign travel policies issued by the foreign insurers, a TPA has to obtain the complete terms and conditions governing such policy and then service only on the specific authorisation of the foreign insurer. Accordingly, it has to submit the details of the health services that could be offered as part of agreement to the foreign insurers.

## VII. CONCLUDING OBSERVATIONS

The introduction of TPAs in India was a revolutionary step for the insurance companies as well as to the policyholders. They are playing a valuable role in the Indian health insurance industry by providing professional capacity for handling health insurance claims and cashless hospitalization benefits. Their role is not to sell the insurance policies rather they provide administrative service to the insurers and hence they are termed as the 'back office' of the insurers also. The role of TPAs starts from issuance of unique identity cards to policyholders for hospital admissions up to settlement of claims either on cashless basis or reimbursement basis.

TPAs are a new category in the field of insurance administration and are becoming a significant factor. As a result of their increasing prominence, but lack of publicity, there appeared to be a need for some enlightenment concerning their potential and market. In true sense, they are working under the proper supervision and regulation of the IRDA to strengthen the health insurance system but it is reality that the relationship between network providers and TPAs is of utmost significance for the effective service of policyholders otherwise there may be issues related to incorrect billing, fraud resulting in abuse of financial system. Due to inconsistency in paying claims, the level of trust between TPAs and policyholders/claimants is not satisfactory which needs the proper awareness regarding insurance plan benefits and operational processes of the TPA on the part of policyholders.

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<sup>11</sup> Roger M. Siddall & Clyde J. Cooley, "The Third Party Administrator for Self-Insured Health Care Plans", Vol. 8, No. 1, 1985, *The Journal of Insurance Issues and Practices*, 42-51 at 42.