

(2013) 05 NCDRC CK 0118

In the National Consumer Disputes Redressal Commission

CHIEF EXECUTIVE OFFICER

APPELLANT

Vs

Kuriakose, S/O Thomas , Manager, Family Health Plan Ltd ,
Manager, Nelyadi Service Co-Op. Bank Puttur Taluk , Dr.
K.Raviprakash, Proprietor/Director Dhanvanthari Hospital

RESPONDENT

Date of Decision : 14-05-2013

Acts Referred:

Citation : 2013 0 NCDRC 358

Hon'ble Judges : S.M.Kantkar J.

Advocate : ANAND SANJAY M.NULI , C.B.GURURAJ

Judgement

1. THIS order shall decide the above mentioned 11 revision petitions. The facts and law points involved in all these cases are same and consequently, they are being disposed of by this common order. We are taking the facts from RP No. 1786/2012. In this case, the complainants became Members of Yeshaswini Co-op. Farmers Health Care Scheme. As per the medical Insurance Scheme, the petitioner/OP was to reimburse the medical expenses of its Members. This is an indisputable fact that Manager, Health Family Plan Ltd., received the premium from each of the complainants and he also issued the policies. The petitioner/OP refused to pay the medical bills of the complainants on the ground that they did not undergo treatment in the network hospitals. There is no dispute that all the complainants took treatment in Dhanvanthari Hospital, Puttur. The petitioner refused to reimburse the said bills.

2. THE complainants filed the complaints before the District Forum which were partly allowed by it. C.E.O, Yeshaswini Co-op. Farmers Health Care Scheme, petitioner/OP 1 and Manager, Family Health Limited Plan, Respondent No.2/OP2 were directed to reimburse the medical expenses of the complainants and were further directed to pay Rs.5,000/- each as compensation and Rs.1,000/- as costs of litigation expenses, within a period of 30 days. Aggrieved by that order, the petitioner/OP filed appeals before the State Commission. The State Commission also dismissed the appeals. We have heard the counsel for the parties. It is

interesting to note that both the counsel have filed two divergent judgments of the same Bench. The first judgment is with reference to the authority in Yeshashwini Bima Yojna Vs. Shahinbanu and Yeshashwini Bima Yojna Vs. Mumtaz Begum (RP Nos. 1172 and 1173 of 2007). In these cases, it was held that : "A reading of the Appendix-1(d) of the Scheme makes it very clear that medical benefits shall mean inpatient hospitals including the related surgeries as notified by the Trust which can be availed by the members subject to the maximum eligibility at any of the network hospitals under the Scheme. Further, the procedure for availing medical benefit is also clearly stated in the same Trust Deed that a beneficiary under the Scheme who wants to avail of medical benefits has to first approach the Society for approval which after satisfying itself will authorize the beneficiary to approach any of the network hospitals approved by the Society and it is for the network hospital to forward a request for pre-authorisation as provided for under the Scheme. In the instant case, it is clear that the respondent did not adhere to the terms and conditions of the Scheme, i.e. she neither approached the Society to get approval for availing the medical benefits nor did she approach any of the hospitals authorized under the Scheme for her medical treatment. Further, it is not disputed that the network of authorized hospitals under the Scheme included super specialty hospitals wherein the respondent could have easily got the best medical treatment, however, complicated her medical condition was, ignorance of the terms and conditions by which the respondent was bound, cannot be a justification for her not adhering to these and yet insisting on claiming, the benefits of medical treatment under the Scheme. The State Commission erred in not appreciating this important fact while reaching its conclusion. We, therefore, have no option but to set aside the order of the State Commission and restore the order of the District Forum. The revision petitions are dismissed with no order as to costs ".

3. THE second judgment is also by the same Bench in the cases, C.E.O, Yeshaswini Co-operative Farmers Health Care Scheme Vs. Hemanth Kumar and C.E.O, Yeshaswini Co-operative Farmers Health Care Scheme Vs. Smt. Susheela Rai K.S. (RP Nos. 3873 and 3875 of 2012), wherein it was held that : "Finding recorded by the fora below that the appellant had not notified the network of the hospitals from where the beneficiary of the scheme could take the treatment is a finding of fact based on evidence which cannot be interfered with, in exercise of revisional jurisdiction. Counsel for the appellant could not point out either from the written statement filed before the District Forum or from any other evidence that the appellant had notified the network of the hospitals from where the beneficiary under the scheme could take the treatment. Such a finding cannot be set aside under revisional jurisdiction ".

4. LEARNED counsel for the petitioner vehemently argued that the subsequent judgment should be followed. However, for the following reasons, we are not inclined to follow the subsequent judgment. We are of the considered view that the first judgment of the same Bench appears to be correct. Furthermore, as per condition No.14, the beneficiary of Yeshaswini Co-op. Farmers Health Care

Scheme could avail such facilities in the registered hospitals of the Rural Areas and Nursing Homes or in the network hospitals and Nursing Homes of the State. As per the Trust Deed, the complainants are bound to take treatment in the network hospitals and the treatment taken by the complainants at Dhanvanthari Hospital is not in accordance with network hospitals. We place no value to the argument advanced by the counsel for the complainants that since the complainants were issued the cards but the network hospitals were not mentioned in the card itself and, as such, they are entitled to reimbursement. This argument is of no consequence.

5. A Member who is registered with Yeshaswini Co-op. Farmers Health Care Scheme must also confirm whether that hospital is covered within the approved hospitals or not. If he chooses a hospital of his own, he chooses it, at his own peril. It is well known that "ignorance of law, is no excuse ". Moreover, even an illiterate is supposed to know from which hospital he is entitled to get the treatment , for the reimbursement purposes. It is bounded duty of the patient to approach the hospital, only if it is an approved hospital.

6. WE are unable to countenance the findings recorded by the fora below. All the claims must be strictly determined by the cannons of fair play and justice. The issue cannot be ducked in the way, the complainants want. This fact cannot obscure the fundamental fact that the patient is bound to select one of the approved hospitals. Consequently, we accept all the 11 revision petitions, set aside the order passed by the State Commission and dismiss the complaints.