(2011) 08 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

Yeshashwini Wima Yojna — APPELLANT

Vs

Shahinbanu — RESPONDENT

Date of Decision : 12-08-2011

Acts Referred:

Citation : 2011 0 NCDRC 555 : 2011 3 CPJ 377

Hon'ble Judges : Ashok Bhan , Vineeta Rai J.

Final Decision : Revision Petitions are dismissed

Judgement

1. REVISION Petition Nos.1172/2007 and 1173/07 have been filed by the same Petitioner i.e. The Authority under Yeshashwini Wima Yojana [Arogya Wima Yojana(Insurance)] being aggrieved by the single order of the State Consumer Disputes Redressal Commission, Karnataka (hereinafter referred to as the State Commission) dismissing their Appeal Nos.1378/05 and 1379/05. In both cases, Respondents and certain facts pertaining to their medical treatment are different, but since the Petitioner is the same and the grounds on which the claims were rejected are also similar, these revision petitions are being disposed of by a single order taking into account the facts in REVISION Petition No.1172 of 2007.

2. THE facts according to the Respondent in the above case, are that she was a beneficiary of the Yashashwini Arogya Wima Yojana (Insurance) Scheme which provide health insurance cover to farmers like her. She was diagnosed with suffering from thyrodectomys specimen disease and a doctor at Bijapur whom she consulted, informed her that since it was a complicated medical condition which would require major surgery for which no specialist was available in Bijapur, she should get the operation done by a specialist at Solapur. Respondent, thereafter, went to Solapur and underwent a surgery. She thereafter applied for reimbursement of expenditure incurred by her to the Petitioner along with necessary documents but the Petitioner refused the reimbursement on the grounds that medical treatment could have only undertaken from hospitals authorized by the Petitioner under the Scheme, which was not so in the instant case. Since the objective of the Scheme was to provide medical treatment and

reimbursement, Respondent contended that the Petitioner wrongly rejected her genuine claim for reimbursement and filed a complaint before the District Forum on grounds of deficiency in service seeking reimbursement of Rs.15,000/- towards her medical treatment and Rs.20,000/- as compensation for harassment and mental torture. Petitioner challenged the above contentions. According to the Petitioner, taking in view the inadequate existing arrangements for medical care and treatment of farmers, the Government of Karnataka floated a Scheme to ensure that all beneficiaries under the Scheme could avail medical treatment including surgical treatment from a network of hospitals and nursing homes including super-specialty hospitals, the procedure etc. for which was incorporated in the Scheme. The hospitals designated under the Scheme were selected and notified and special rates arranged with them to ensure cashless transactions for treatment to beneficiaries under the Scheme. In the instant case, the Respondent did not follow the procedure in availng medical treatment from any of the network hospitals authorized under the Scheme and, therefore, her claim was rightly rejected.

The District Forum after hearing the parties and considering the evidence on record dismissed the complaint. The operative part of the order of the District Forum reads as follows: As per Rules and Regulations of Yashashwini Vima Yojana claim of the complainant is repudiated. The members must take treatment with the doctors and hospitals mentioned by the (Y.V.Y) or on the advice of said doctors with other consultants or hospitals. As such the claim of complainant is rightfully rejected by the respondent. This procedure has not been followed by the complainant. Complainant miserably fails to prove that Dr.Jalil Muzawars Hospital is included in Yashashwini Vima Yojana Scheme. Secondly, complainant fails to prove that there is deficiency of service by the respondent side.

3. AGGRIEVED by this order, Respondent filed an appeal before the State Commission which accepted the appeal by making the following observations: The complainants are the poor farmers. They will not be knowing the conditions of the policy as they are from rural areas. Therefore, we are of the view that such innocent people shall not be made to suffer only because they have taken treatment in some other hospitals in view of the fact that the complainants underwent a surgery is not disputed.

Hence, the present revision petition.

4. LEARNED Counsel for Petitioner made oral submissions. None appeared on behalf of the Respondent. Since service is complete, the case was heard ex parte. LEARNED Counsel for Petitioner reiterated that under the Scheme it is clear that the beneficiaries could avail of medical benefits only from among the network hospitals notified under the Scheme. In case a beneficiary wanted authorization for treatment in any other hospital, he would have to approach a network hospital approved under the Scheme which after considering his case could make a recommendation to this effect. In the instant case, the Respondent

did not follow any of these procedures which she was required to, being a beneficiary under the Scheme. Under the circumstances, the claim for reimbursement was rightly refused. Unfortunately, the State Commission erred in not appreciating these facts and accepted the appeal of the Respondent on grounds of deficiency in service. The present revision, therefore, deserves to be accepted. We have heard learned Counsel for Petitioner and have gone through the evidence on record including the Deed of Trust of Yeshashwini Wima Yojana [Arogya Wima Yojana(Insurance)] Scheme of the Petitioner. A reading of the Appendix-1 (d) of the Scheme makes it very clear that medical benefits shall mean in-patient 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.

