

**Udyog Sadan Qutub Institutional Area New Delhi-16
Heading2**

**Complaint Case No. CC/49/2019
(Date of Filing : 26 Feb 2019)**

1. SH. HARI MOHAN

B-38, CHANDER NAGAR, GHAZIABAD, U.P.

.....Complainant(s)

Versus

1. MAX BUPA HEALTH INSURANCE CO. LTD.

B-1/1-2, MOHAN COOPERATIVE INDUSTRIAL ESTATE,
MATHURA ROAD, NEW DELHI-110044.

.....Opp.Party(s)

BEFORE:

Monika Aggarwal Srivastava PRESIDENT

Dr. Rajender Dhar MEMBER

Ritu Garodia MEMBER

PRESENT:

Dated : 05 Apr 2024

Final Order / Judgement

CONSUMER DISPUTES REDRESSAL COMMISSION – X

GOVERNMENT OF N.C.T. OF DELHI

Udyog Sadan, C – 22 & 23, Institutional Area

(Behind Qutub Hotel)

New Delhi – 110016

Case No.49/2019

Shri Hari Mohan

S/o Shri B.B. Lal Bhatnagar

R/o B-38, Chander Nagar

Ghaziabad, U.P

.....COMPLAINANT

Vs.

Max Bupa Health Insurance Com. Ltd.

B-1/1-2, Mohan Coop. Industrial Estate

Mathura Road, New Delhi-110044.

Through its Manager/Managing Director

....RESPONDENTS

Date of

Institution- 26.02.2019

Date of Order-05.04.2024

ORDER

RITU GARODIA-MEMBER

1. The complaint pertains to deficiency in service on the part of OP in repudiating the claim of the complainant.
2. The brief facts stated in complaint are that the complainant purchased a policy bearing No. 30366527201400 from OP on the payment of premium amount. The complainant states that the policy was continuing for the long time.
3. On 08.06.2018, the complainant was suffering from breathing difficulty and took treatment from Max Health Care Hospital. He spent Rs.48,923/- towards the bills of the hospital. The complainant applied for cashless claim which was duly processed.
4. On 13.06.2018, the complainant was again admitted in Max Super speciality Hospital, Vaishali wherein he was shifted to ICU. The complainant paid Rs.5,62,984/- towards hospital bill. The complainant prays for re-imburement of these bills along with interest @24% and compensation amounting to Rs.2,00,000/-.
5. OP in its reply states that the complainant had obtained a medi-claim policy namely Family First Silver Insurance policy bearing No. 30366527201400 from OP in the month of

October, 2014. The policy provided for sum insured of Rs.5,00,000/- and floater sum insured of Rs.15,00,000/-. The said policy was renewed time and again.

6. A pre-authorisation request for cashless treatment was received from Neo Hospital. As per the request, the complainant was treated for Lower Respiratory Tract Infection (LRTI) and respiratory failure and no treatment was given for Myasthenia Gravis. Even preauthorization form received mentions provisional diagnosis as LRTI with acute exacerbation. Therefore, the said cashless was approved and payment of Rs.47,704/- was made on 11.07.2018
7. Another preauthorization request of cashless treatment was received from Max Health Care Super Speciality Hospital, Vaishali on 13.06.2018 with complaints of breathing difficulty for one day. The provisional diagnosis was mentioned as Myasthenia Gravis. The initial assessment sheet from Max Care is being presented with Myasthenia Gravis.
8. The preauthorization request was denied vide letter dated 14.06.2018 stating that expenses for screening, counselling, and treatment of complication related to auto immune disorder disease fall under the provision of permanent exclusion as per the clause 8.4 of the policy terms and conditions.
9. OP has also stated that the claim for medical bills for Rs.5,62,984/- has not been submitted.
10. The complainant has filed rejoinder denying the averments made by OP.
11. The complainant has filed the evidence by way of affidavit and exhibited the following documents:
 - i. Copy of bill of NEO Hospital is exhibited as Ex.CW-1/1.
 - ii. Copy of authorisation dated 10.06.2018 with bill of Rs.52104/-is exhibited as Ex.CW-1/2.
 - iii. Copy of discharge summery is exhibited as Ex.CW-1/3.
 - iv. Copy of denial of authorisation is exhibited as Ex.CW-1/4.
 - v. Copy of letter dated 14.06.2018 is exhibited as Ex.CW-1/5 & 6
 - vi. Copy of deposit/advance receipt is exhibited as Ex.CW-1/7.
 - vii. Copy of notice is exhibited as Ex.CW-1/8.
 - viii. Copy of Legal notice dated 23.10.18 is exhibited as Ex.CW-1/9
 - ix. Copy of cover note of policy is exhibited as Ex.CW-1/10.

12. The OP has filed the evidence by way of affidavit and exhibited the following documents:

- i. Copy of authorisation letter is exhibited as Ex.RW-1/A.
- ii. Copy of application/Proposal form alongwith portability documents and no claim declaration is exhibited as Ex.RW-1/B.
- iii. Copy of policy certificate bearing No.30366527201804 alongwith terms and conditions are exhibited as Ex.RW-1/C, 1/D, 1/E, 1/F, 1/G.
- iv. Copy of preauthorisation request is exhibited as Ex.RW-1/H
- v. Copy of preauthorisation form alongwith medical documents is exhibited as Ex.RW-1/I
- vi. Copy of preauthorisation/cashless denial letter is exhibited as Ex.RW-1/J
- vii. Copy of extract from HARRISON's exhibited as Ex.RW-1/K

13. The commission has considered the pleadings and documents on record. It is undisputed that complainant was covered under Family First Silver Insurance policy bearing No. 30366527201400 which provided for sum insured of Rs.5,00,000/- and floater sum insured of Rs.15,00,000/-. It is undisputed that the complainant was hospitalised twice. The cashless claim for the first hospitalisation was processed whereas the cashless claim for second hospitalisation was rejected.

14. The cashless claim was denied vide letter dated 14.06.2018. *“Reasons for Denial: In accordance with clause 8.4 Expenses for Screening, counselling, treatment or complications related to auto immune disease will not be covered.”*

15. Clause 8.4 of terms and conditions of policy is as follows –*8. Permanent exclusion.....*

We shall not be liable to make any payment under this Policy directly or indirectly caused by, based on, arising out of or howsoever attributable to an of the following unless specifically mentioned elsewhere in the Policy.

8.4 Autoimmune Disorders

Screening, counselling, treatment of complications related to autoimmune diseases.”

16. The complainant underwent first hospitalisation on 08.06.2018 and was discharged on 10.06.2018 against medical advice in Neo Hospital. Relevant portion of Discharge Summary is as follows :

Final Diagnosis

Acute Lower Respiratory Tract Infection with Type I Respiratory Failure

Myasthenia Gravis with Impending Myasthenic Crises

*DM TYPE 2****Case Summary***

Mr. Hari Mohan, 56Yrs/Male was admitted with complaints of difficulty in breathing since 2-3 days, restlessness, drowsy, palpitation, generalized body weakness since 2 days.

.....

Course In Hospital

Patient was admitted in Neurology unit for further management. As patient had severe breathlessness, restless, drowsy hence ABG was done which showed type I respiratory failure and chest X-Ray was done which showed prominent bronchovascular markings in both lungs fields, bilateral CP angles are hazy-? pleural effusion. Relevant blood investigations were done which showed leukocytosis (13400), PT (16.3), IN (1.27), APTT (31.6), high HbA1C (7.1), Viral markers (non-reactive), patient was seen by cardiologist for shortness of breath and bed side 2D Echo was done which showed normal LV/RV systolic function, mild concentric LVH, grade I diastolic dysfunction. Physician opinion was taken for diabetic management and advise followed accordingly. Pulmonology opinion was sought for breathing difficulty and advise for USG thorax to rule out pleural effusion and incentive spirometry patient attendant refuse for further investigations and management. Patient was managed with Inj. Monocef, Inj. Lasix, Inj. Pantocid, Inj. Emeset, BIPAP Support, Tab. distinon, Tab. MMF, Tab. Thyronom, Tab. Omnacortil, Tab. Supracal, Tab. Dytor, Tab. Dimicrom.

17. The complainant was again hospitalised within four days of discharge on 13.6.2018 and was discharged on 18.06.2018. Relevant portion of Discharge Summary is as follows :

Myasthenic crisis with respiratory failure type I

PRESENTING COMPLAINTS: *Mr. Hari Mohan 54 years old male, presented with complaints of breathing difficulty, difficulty in swallowing, change in voice and drooping of right eyelid since 2-3 days.*

PAST HISTORY:

■
CM.

Hypothyroidism

PROCEDURES/TREATMENT AND COURSE DURING HOSPITALIZATION:

Patient was admitted with above mentioned complaints. All necessary investigation were done. Hb-13.4, TLC-13.86, p/c-198, CPK-39, CK-MB-0.7, renal profile- wnl, procalcitonin-0.25. Chest x ray done s/o- Haziness seen in both lower lobes with blunting of CP angles-? pleural effusion No focal lesion seen in the lung parenchyma. USG chest done which showed- No free fluid seen in the bilateral pleural cavities. ECG normal. Patient managed with IVIG of 5 days, steroids and immunomodulation also given alongwith oxygen support and IV antibiotics. Patient showed improvement pyridostigmine also given. He was shifted to room on day 3 of IVIG. Antibiotics course completed and now patient is being discharged on oral steroids, MMF and pyridostigmine.”

18. Hon’ble Delhi State Commission ***in National Insurance Company Limited Vs. Ms. Anita Sehgal, First Appeal No. 356/2018*** decided on 02.05.2023 has observed that:

15. In the instant case, it is observed that primarily, the Appellant alleged that the Appellant Company has paid the part claim of the insured amount, which is also as per the terms and conditions of the policy. Although, we find from the District Commission record that the Respondent/Complainant took a Mediclaim Policy but, we failed to find any document or evidence annexed or produced by the Appellant/Opposite Party which can substantiate their contention to show that the part claim has already been paid by the Appellant Company moreover, no cogent proof has been filed by the Appellant to show that the Appellant Company have acted within the terms and conditions of the aforesaid policy.

16. Since, the onus of proof is upon the Appellant to prove that they have paid the part claim and acted within the boundaries of terms and conditions however, in the present case, no documentary proof or evidence has been filed by the Appellant to prove the same. Therefore, in devoid of any evidence, we are not convinced with the fact that the Appellant has not rejected the claim of the Respondent and acted within the terms and conditions of the aforesaid policy.

19. Hon’ble National Commission in ***National Insurance Co. Ltd. Shyam Babu & Ors. I (2018) CPJ 198 (NC)*** has observed that:

In our opinion, the Insurance Company having renewed the same policy for the next year as well, despite the fact that on its own showing, Complainant No.2 was taking treatment at the Apollo Hospital from time to time, it is now estopped from blindly accepting the opinion of the TPA that the claim preferred by the Complainants should be rejected on the ground that they had failed to disclose the disease, Complainant No. 2 was suffering from, since the year 1999.

20. It is clear that complainant was suffering from *DM Type 2 Hypothyroidism and Myasthenia Gravis*. The complainant experienced breathing difficulties and was admitted in Neo Hospital on 08.06.2018 wherein the final diagnosis shows Respiratory infection with Type 1 respiratory failure, Myasthenia Gravis with Myasthenia crisis DM TYPE 2 and Hypothyroidism. A cashless claim was lodged which was duly paid by OP. Thereafter, the complainant took discharge from Neo Hospital on 10.06.2018 against medical advice. He

continued facing breathing difficulties. He was admitted again in Max Health Care on 13.06.2018. The final diagnosis of the second hospital was Myasthenia Crisis with respiratory failure type 1. A claim was lodged which was rejected.

21. The respondent asserts that during the initial hospitalization, the complainant received treatment for lower respiratory tract infection but did not receive treatment for Myasthenia Gravis. Additionally, the respondent states that during the second hospitalization, treatment was administered for Myasthenia Gravis. However, the respondent has not provided any clarification or specifics regarding the variance in treatment between the two hospitalizations despite both hospitals reaching the same final diagnosis. Once the respondent has settled one claim, they are estopped from denying a second claim for ongoing treatment related to the same condition.
22. Complainant has annexed medical bills amounting to Rs.5,80,984/- dated 18.06.2018.
23. Hence in the light of discussions above, we find OP guilty of in deficiency in service and direct him to pay:
- i. Rs.5,80,984/- with 9% interest from date of discharge till realization.
 - ii. Rs.20,000/- towards mental harassment and physical inconvenience.
 - iii. Rs.5,000/- towards litigation expenses.
24. File be consigned to record Room. Order be complied and uploaded within 30 days.

[Monika Aggarwal Srivastava]
PRESIDENT

[Dr. Rajender Dhar]
MEMBER

[Ritu Garodia]
MEMBER