Journal on Banking Financial Services & Insurance Research
Vol. 14 Issue 10, October 2024, Impact Factor: 8.059 ISSN: (2231-4288)
www.skirec.org Email Id: skirec.org@gmail.com

Legal Issues and Challenges in Ensuring Effective Mental Health Insurance Coverage in India

Dr Shruti Vijay Vaghela
Assistant Professor of Law
Maharashtra National Law University, Nagpur

Abstract

This research investigates the issues and challenges pertaining to mental health insurance coverage in India amidst rising mental health disorders. It analyses the evolution of health insurance and mental health legislation, focusing on the Mental Healthcare Act, 2017, and government initiatives like Ayushman Bharat. Despite legislative progress mandating insurance parity for mental illness, the study identifies major obstacles including stigma, limited public awareness, scarcity of mental health professionals, inadequate infrastructure, and regulatory enforcement deficiencies. It also explores challenges insurers face in claim reimbursement and policy underwriting. Judicial pronouncements underscore enforcement gaps that delay claim settlements. The research employs doctrinal methodology based on secondary data to offer comprehensive insights into the interlinked legal, social, and operational barriers confronting mental health insurance coverage. It concludes with recommendations for policy reforms, enhanced workforce capacity, decentralized services, and technological integration to improve coverage accessibility and quality. The study highlights the need for holistic approaches combining legal, societal, and practical dimensions to ensure meaningful mental health insurance coverage in India.

Keywords*:* Mental Health Insurance, India, Mental Healthcare Act 2017, Insurance Coverage, Social Stigma, Mental Health Legislation, Ayushman Bharat, Insurance Regulation, Mental Health Financing, Healthcare Access, Policy Reform

Introduction

"When health is absent, wisdom cannot reveal itself, art cannot manifest, strength cannot fight, wealth becomes useless, and intelligence cannot be applied."

— Herophilus

Maintaining good health is crucial. Any nation's progress depends on its people. Access to healthcare is impossible due to rising medical costs. Individuals must shoulder personal financial difficulties, and in some cases, inadequate financial help may lead to death or serious health risks, halting life growth. The observation is common in India. Medical surgeries are expensive, thus people without money can't afford advanced medical facilities. Lower-, middle-, and upper-middle-income people sometimes find themselves in situations where their loved ones need medical care but cannot afford it. In this case, health insurance is helpful.

Modern, fast-paced, competitive society should not stigmatize mental health discussions. As important as physical health, mental health deserves equal or better treatment and care. Recent research shows a reduction in children and youth well-being and a rise in mental health disorders. Mental health in India is often ignored and even humiliated[1]. With the COVID-19 pandemic, mental health concerns are now being recognized and addressed. Previously, mental disorders like psychological issues were not covered by health insurance in India. Only physical health issues were covered. In recent years, mental health issues have gained acknowledgment and understanding. People are talking about mental health challenges and sharing their experiences. This has raised mental health awareness. The above improvement has improved India's insurance system.

Statement of Problem:

The research paper entitled " Issues and Challenges in Mental Health Insurance Coverage in India" examines a significant issue within the healthcare system of India. In light of the escalating incidence of mental health disorders within the nation, considerable barriers impede individuals' ability to obtain essential insurance coverage and receive mental health services. The major issue pertains to the limited level of knowledge and the widespread negative perception associated with matters related to mental health. Furthermore, the situation is exacerbated by other factors, including inadequate coverage, exorbitant prices, regulatory

[1] Sagar, Rajesh, and Swarndeep Singh. "National Tele-Mental Health Program in India: A step towards mental health care for all?" *Indian Journal of Psychiatry* 64.2 (2023): 117.

inadequacies, and a scarcity of mental health practitioners. Hence, the primary objective of this research study is to examine and provide viable remedies to address the aforementioned concerns and challenges, with the ultimate goal of enhancing mental health insurance coverage in India and thereby promoting the overall welfare of the populace.

Research Objective:

- To understand the concept of Health Insurance and how it has evolved over time.
- To have a glimpse as to what do we understand by mental health & how mental health legislations have evolved over time.
- To Investigate Government Initiatives and Policies.
- To examine the issues that hinder individuals and families from obtaining mental health insurance coverage.
- To identify challenges faced by insurers in processing mental health claims.
- Proposing strategies for improving mental health insurance coverage.

Review of literature:

The National Mental Health Survey of India, 2015–16 conducted by the National Institute of Mental Health and Neuro Sciences (NIMHANS) provides a comprehensive snapshot of the mental health landscape in India, revealing a significant burden of mental health disorders across the population. This foundational national survey underscores the urgent need for enhanced mental health care infrastructure and services to address widespread prevalence.[2]

Building upon this, Sagar et al. (2020)[3]conducted a meta-analysis that highlights the high prevalence of mental and behavioural disorders in India. This work reinforces the scale of the challenge and emphasizes the importance of systematically addressing mental health issues at a population level. Patel et al. (2016)[4] frame these challenges within a global context, emphasizing the critical burden of mental, neurological, and substance use disorders

[2] National Institute of Mental Health and Neuro Sciences. National Mental Health Survey of India, 2015–16: Summary. Bengaluru: NIMHANS, 2016. Available at: https://indianmhs.nimhans.ac.in/phase1/Docs/Summary.pdf.

[3] R. Sagar, et al. "Prevalence of Mental and Behavioural Disorders in India: A Meta-analysis". *Indian Journal of Psychiatry* vol. 62, Suppl 2, 2020, pp. S302–S313.

[4] Patel, V., et al. "Addressing the burden of mental, neurological, and substance use disorders: key messages from Disease Control Priorities." *The Lancet* vol. 387, no. 10028, 2016, pp. 1672-85.

worldwide. They underscore the importance of including mental health in insurance coverage and health policy priorities to reduce the treatment gap and improve accessibility.

Addressing mental health care financing, Prinja et al. (2019)[5] review four pilot mental health insurance programs in India. Their study provides early evidence of efforts to implement insurance models for mental health, discussing the strengths and weaknesses of these programs and offering valuable insights into scaling insurance coverage for mental illnesses.

Grover et al. (2018)[6]contribute clinical practice guidelines for managing depression, outlining challenges in mental health care delivery in India and the necessity for standardized, accessible treatment protocols. Meanwhile, societal barriers significantly impact mental health care uptake; Raguram et al. (1999)[7] explore stigma, depression, and somatization in South India, spotlighting how stigma influences mental health outcomes and the acceptance of care, a critical consideration for insurance program design to ensure patient engagement and utilization .

Policy perspectives on India's mental health governance are discussed by Nambi (2015)[8] who reflects on the National Mental Health Policy, calling for a reboot of policy frameworks to better meet contemporary mental health challenges, including the integration of insurance mechanisms and community-based care.

Together, these studies form a cohesive body of knowledge that depicts the pressing need for comprehensive mental health policies that integrate clinical guidelines, stigma reduction, and insurance coverage. They emphasize the importance of national surveys to measure burden,

[5] Prinja, S. et al. "Mental health insurance in India: A review of four pilot programs." *Health Policy and Planning* vol. 34, no. 9, 2019, pp. 667–673.
[6] Grover, S., et al. "Clinical Practice Guidelines for Management of Depression." *Indian Journal of Psychiatry* vol. 60, no. Suppl 2, 2018, pp. S341–S388.
[7] Raguram R, et al. "Stigma, depression, and somatization in South India." *American Journal of Psychiatry* vol. 156, no. 4, 1999, pp. 654–657.
[8] Nambi, S. "National Mental Health Policy of India: A Time to Reboot." *Indian Journal of Psychiatry* vol. 57, no. 4, 2015, pp. 315–321.

evidence-based insurance pilot programs, and policy reforms to achieve better mental health outcomes in India.

Rationale of Study:

Several factors justify evaluating India's mental health insurance coverage issues. One major issue is the growing identification of mental health issues in India, which range from mild anxiety and depression to serious psychiatric diseases. This issue, compounded by modern culture and the COVID-19 pandemic, has highlighted the need for accessible and comprehensive mental health care.

Despite the need, India struggles to provide enough mental health insurance. Social stigma around mental health issues often prevents people from getting help. Lack of information and finances also prevent mental healthcare access. These restrictions affect individuals, families, and society, reducing productivity and increasing healthcare costs.

Mental health insurance in India has limitations, exclusions, and coverage gaps, preventing many people from getting enough financial protection for mental health issues. Insurance companies' comprehensive mental health coverage is limited by regulations and laws.

Therefore, mental health insurance issues and complications in India must be studied. This study reveals barriers to mental healthcare and suggests solutions.

Research Methodology:

The researcher has followed the doctrinal method of research. Many articles and secondary sources have been used by the researcher for extracting the relevant information regarding the topic. The secondary data & information have been collected from different scholars and researchers, published e-books, articles published in different journals.

Scope and Limitation:

The study paper, "Issues and Challenges in Mental Health Insurance Coverage in India," focuses on one topic while acknowledging limitations. This research study examines India's mental health insurance issues. This study seeks to understand mental health insurance implementation and use barriers. This study examines mental health awareness and stigma. It will also evaluate insurance coverage, mental health service affordability, regulatory issues, mental health expert availability, and socioeconomic factors affecting mental health insurance. The research also discusses mental health insurance's effects on society, healthcare, and

individuals. The study also evaluates legislative and regulatory changes to improve mental health insurance coverage. This study examines India's mental health insurance issues in detail. However, this study's findings and conclusions are based on data and literature available. This work aims to offer a complete understanding of the topic while respecting extent and accessibility limits.

OVERVIEW AND HISTORICAL BACKGROUND

Understanding Health Insurance

A health insurance policy is a form of guarantee that offers prompt financial assistance in the event of a medical emergency. The insurance policy serves as a formal agreement between an individual who holds the policy and an insurance company, providing coverage for potential medical expenses arising from disease, injury, or accidents. In the event that an individual possesses a health insurance policy, it is expected that the insurance company will assume responsibility for a portion or the all of the medical expenses incurred, with the insured party being obligated to remit a designated sum referred to as a premium. The introduction and perceived necessity of health insurance have been evident in developing nations in recent years. Health insurance can be defined as a means of providing financial protection to individuals in the event of medical contingencies. The insurer, or the entity responsible for providing the coverage, commits to provide monetary compensation or help to the insured party[9].

History of Health Insurance

The concept of Health Insurance and Life Insurance was developed by the ancient Greeks and Romans about the 6th century AD. The society was structured by the establishment of entities known as "guilds." These communities exhibited inclusivity by welcoming individuals regardless of their financial means, social class, occupation, or societal standing. In this context, society members are accustomed to distributing expenses among themselves in a fair and equitable manner.

The Hammurabi Code promoted the idea of implementing a system of health insurance. The contemporary health insurance industry derives several of its defining features from the code of Hammurabi. Various rates were established for different surgical procedures, and proficient

[9] Bijal, A. Sangoi, et al. "Health insurance and mental illness." *Indian journal of psychiatry* 61. Suppl 4 (2019): S791.

surgeons were duly recognized and rewarded for their achievement. Conversely, in instances of failure, penalties were levied upon them.

The recognition of the concept of health insurance occurred during the early twentieth century. The provision of individual health insurance policies in the United States commenced during the period of the Civil War. The given plans offer insurance coverage for injuries resulting from travel on trains and steamboats. As early as 1847, Massachusetts Health Insurance of Boston introduced early group insurance that encompassed a relatively broad range of benefits. The initial popularity of individual accident insurance prompted the development of more comprehensive programs that encompassed a wider spectrum of illnesses and injuries. By the late 19th century, these programs also included early iterations of disability coverage. During the initial decades of the twentieth century, various organizations-initiated collaborations with healthcare providers in order to establish the foundations of contemporary health insurance schemes, commonly referred to as fee-based contracts.

Health Insurance in India

In India, the inception of health insurance can be traced back to 1986 when "Mediclaim" policies were introduced. These policies, falling under the category of indemnity coverage, involve the reimbursement of medical expenses incurred by policyholders upon their hospitalization for treatment. Subsequently, non-life public sector enterprises engaged in the production of those products.

In the early 1990s, LIC of India, the exclusive state-owned life insurance firm at the time, implemented a novel benefit-based policy. This policy provided consumers with a predetermined quantity of money upon diagnosis of specific serious conditions, including cancer, among others. The product characteristics encompass an endowment structure, wherein the policyholder receives the insured money either upon the occurrence of a specified illness or upon surviving until the conclusion of the insurance term.

Prior to the liberalization of the insurance sector in 2000, the majority of health insurance coverage in India was primarily focused on medical claims. During the period of liberalization, only a limited number of international standalone health insurance companies, such as Aetna, Cigna, and others, expressed interest in operating in India. These companies sought a lower capital requirement for health insurance companies in comparison to life and non-life insurance

companies. However, regulatory authorities did not grant permission for this lower capital requirement.

Concept of Mental Health

Mental health refers to a condition of psychological well-being that empowers individuals to effectively manage the challenges of life, recognize and harness their capabilities, attain optimal educational and occupational performance, and make meaningful contributions to their social environment. The concept in question is a fundamental element of both physical and mental health, serving as a foundation for our capacity to engage in decision-making processes, establish connections with others, and influence the societal environment in which we reside. The provision of mental health services is considered a fundamental entitlement for all individuals. Furthermore, it is vital for both individual and collective growth, as well as for the advancement of societal and economic conditions.

The concept of mental health extends beyond the mere absence of mental diseases. The phenomenon under consideration is situated along a multifaceted spectrum, wherein individuals perceive and navigate it in diverse manners, exhibiting differing levels of challenge and emotional strain, and potentially yielding disparate social and clinical consequences.

Mental health issues encompass a range of mental disorders, psychosocial disabilities, and other mental states that are characterized by notable distress, impaired functioning, or a heightened risk of self-harm. Individuals diagnosed with mental health issues have a higher propensity for diminished levels of mental well-being; however, it is imperative to acknowledge that this correlation does not invariably hold true in all instances.

Mental Health Legislation in India

Legislation pertaining to mental health has been in existence in India since the mid-19th century. The Lunatic Removal Act, enacted in 1851, marked the initial legislation pertaining to mental disease within the context of British India. This act remained in effect until 1891. The aforementioned legislation was implemented with the purpose of establishing regulations pertaining to the repatriation of individuals from the United Kingdom who are afflicted with mental health disorders.

Patients were subjected to prolonged detention in substandard living conditions, with limited prospects for recuperation or release, as stipulated by these Acts. The drafting of the Indian Lunacy Act of 1912 was a direct result of the aforementioned Acts. This Act, being the first

comprehensive legislation pertaining to mental health in India, brought about significant transformative measures in the administration of asylums. Nevertheless, the legislation was founded on the imperative to safeguard the general populace from those afflicted with mental disorders. The document included terminology such as 'lunatics', 'lunatic asylums', and 'idiots', while exhibiting a lack of regard for human rights and prioritizing jail punishments sentences[10]. The Act in question was deemed "inappropriate" by the Indian Psychiatric Society, which subsequently contributed to the formulation of a mental health statute in 1950. The enactment of the Mental Health Act (MHA) in India occurred after a span of twenty years, specifically in 1987.[11] This legislation largely functioned as a correctional measure. The aforementioned legislation was enacted in the year 1993, serving as a replacement for the Indian Lunacy Act of 1912. The Mental Health Act of 1987 established the prescribed standards of treatment in mental health facilities. The Mental Health Act (MHA) also adopted a progressive approach in defining mental disease, placing a greater emphasis on the provision of care and treatment rather than custodial measures. An attempt was made to achieve a harmonious equilibrium between the rights of the family members who serve as primary caregivers and the rights of the patients, while taking into consideration the potential strain experienced by the caregivers. The Mental Health Act of 1987 also aimed to establish regulations pertaining to involuntary admissions, as outlined in sections 19 and 20. According to these provisions, the legislation stipulated that involuntary admission may exclusively take place within specifically designated psychiatric facilities, and necessitated the endorsement of a psychiatrist as well as two medical practitioners.[12]

Nevertheless, the MHA 1987 legislation was not exempt from receiving its fair share of complaints. The legitimacy of the act was called into question by human rights groups due to its infringement upon the personal freedom of patients, without the inclusion of a judicial review process. The Act did not provide any provisions or guidelines on the management and

[10] Dey, Sangeeta, and Graham Mellsop. "Colonization, history and the evolution of mental health legislation in India, Pakistan, Sri Lanka and Bangladesh." Routledge Handbook of Mental Health Law. Routledge, 2023. 527-539.
[11] Gary, Faye A. "Stigma: Barrier to mental health care among ethnic minorities." Issues in mental health nursing 26.10 (2005): 979-999.
[12] Saxena, Shekhar, et al. "Resources for mental health: scarcity, inequity, and inefficiency." The lancet 370.9590 (2007): 878-889.

recovery of patients following their release from the medical facility[13]. The constrained allocation of finances and resources has resulted in suboptimal performance of national and mental health authorities, hence impeding the effective implementation of their mandates.The Mental Health Care Bill was introduced in the year 2013 and subsequently enacted in 2017.[14]

LEGAL FRAMEWORK AND JUDICIAL PRONOUNCEMENT

Health Insurance, Laws and guidelines in India

Insurance regulation in India was officially established with the enactment of the Life Insurance Companies Act, 1912 and the Provident Fund Act of 1912. The insurance sector in India is now regulated by two key legislations, namely the Insurance Act of 1938 and the Insurance Regulatory Development Authority Act of 1999 (IRDA Act, 1999). The preamble of the IRDA Act, 1999 states its purpose as follows: "To establish an authority that safeguards the interests of insurance policyholders, regulates and promotes the systematic development of the insurance industry, and addresses related matters and amendments to the Insurance Corporation Act 1956 and the General Insurance Business (Nationalisation) Act 1972."

The insurance system in India is regulated by the Insurance Regulatory and Development Authority of India (IRDAI). To mitigate potential harm or financial loss to policyholders, it is imperative to safeguard their interests through the exertion of supervisory control over the multitude of insurance policies issued by various insurers. Section 141 of the Insurance Regulatory and Development Authority of India (IRDAI) Act, 1999, serves as a protective measure for policyholders, including various policy types and the settlement of claims.

The Insurance Regulatory and Development Authority of India (IRDAI) is entrusted with the job of overseeing and governing the terms and conditions of insurance contracts. Hence, it is incumbent upon the Insurance Regulatory and Development Authority of India (IRDAI) to ensure the effective implementation of statutes enacted for the welfare of policyholders by insurance companies.

Mental Healthcare Act: A Legislation for The People

The "United Nations Convention on the Rights of People with Disabilities" explicitly prohibits any kind of discrimination against those with mental illnesses or disorders. Since the 1800s,

[13] Gupta, Snehil, and Rajesh Sagar. "National Mental Health Policy, India (2014): Where Have We Reached?" *Indian Journal of Psychological Medicine* 44.5 (2022): 510-515.

[14] Murthy, Pratima, et al. "Mental health and the law: An overview and need to develop and strengthen the discipline of forensic psychiatry in India." *Indian journal of psychiatry* 58.Suppl 2 (2016): S181.

mental health in India has been encompassed by a range of legislative measures. The issuance of the "Mental Healthcare Bill, 2016" has been undertaken with the aim of aligning domestic legislation with the provisions outlined in the "United Nations Convention".

The Mental Health Care Bill is a highly comprehensive legislative instrument that was enacted in August 2016. The measure had an extended period of deliberation within the parliamentary setting, spanning multiple years. While the lower house successfully passed the bill in 2013, the upper house did not pass it until three years later, accompanied by numerous significant revisions.

The recently enacted legislation provides a definition for the term "mental illness" as a disease characterized by significant disturbances in cognition, affect, perception, orientation, or memory, resulting in a severe impairment of an individual's capacity to exercise sound judgment or effectively fulfil the typical responsibilities and obligations of daily living. Additionally, the definition encompasses mental health issues that are closely linked to the misuse and dependency on substances such as alcohol and drugs.

The proposed legislation acknowledges the entitlement of all individuals within the nation who are afflicted with mental diseases to receive appropriate treatment, assistance, and the opportunity to live a life devoid of prejudice and inequity. Additionally, the document delineates the obligations of diverse governmental entities, including law enforcement, the judiciary, and the public healthcare system, in safeguarding these rights. Furthermore, it establishes objectives for public mental health initiatives and outlines the responsibilities of the Designated Mental Health Professional (DMHP).

In order to safeguard the rights of individuals afflicted with mental diseases who become entangled within the judicial system, the Bill additionally delineates the establishment of Mental Health Review Boards at the state level. The composition of the boards will include District Judges, individuals from administrative services such as District Collectors, psychiatrists, representatives from mental health non-profit organizations, and individuals with mental disorders who may advocate for the interests of the population. The boards will possess the authority to determine an individual's mental health condition, assess whether the rights of said individuals are being violated, reverse prior legal mandates, and evaluate grievances raised by those undergoing trial or serving a jail term. Section 108 of the Act stipulates a certain duration of imprisonment for the offense. The legislation stipulates:

Individuals who violate any provision outlined in this Act, or any associated rule or regulation, may face penalties. For a first offense, the punishment may include imprisonment for a maximum of six months, a fine of up to ten thousand rupees, or both. In the case of subsequent offenses, the penalty may involve imprisonment for a maximum of two years, a fine ranging from fifty thousand rupees to five lakh rupees, or both.

The Mental Healthcare Act of 2017 overrides the preceding legislation enacted in 1987. The Act underwent a transition from a crime-centred strategy to a rights-cantered approach, with a primary emphasis on safeguarding the rights of individuals with substance use disorders during the period of diagnosis and treatment. This particular insurance program aims to alleviate the economic strain and enhance the level of understanding regarding mental health among the Indian population.

Role of Government:

The Ayushman Bharat program, which serves as the primary initiative of the Government of India, was strategically developed with the aim of fulfilling Sustainable Development Goal and attaining Universal Health Coverage. Ayushman Bharat encompasses a dual-pronged strategy, comprising the establishment of Health and Wellness Centres and the implementation of Pradhan Mantri Jan Arogya Yojana (PM-JAY). The Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PM-JAY) is a health insurance policy of significant scale, offering coverage of INR 5 lakhs per family year. The program provides cashless coverage for secondary and tertiary care hospitalization to the lower 40% of the Indian population, namely in the empanelled institutions.[15]

The Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PM-JAY) encompasses provisions for the treatment and management of mental diseases. The initial number of packages issued was 17; however, this figure was subsequently cut to 10 in December 2019. The package encompasses the entirety of treatment expenses, encompassing both pre- and post-hospitalization expenditures. The Pradhan Mantri Jan Arogya Yojana (PM-JAY) has established a standardized fee of INR 1500 for the treatment of various disorders, including mental retardation, organic mental disorders (including symptomatic disorders), schizophrenia, schizotypal and delusional disorders, neurotic, stress-related and somatoform disorders, mood (affective) disorders, behavioural syndromes associated with physiological disturbances and

[15] Government initiative Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (PM-JAY)

physical factors, as well as mental and behavioural disorders caused by psychoactive substance use. The costs associated with Electroconvulsive Therapy (ECT) and Transcranial Magnetic Stimulation (TMS) are INR 3000 and INR 1000 each session, respectively. The package cost of INR 10000 includes the necessary pre-treatment assessments for ECT and TMS, which encompass cognitive tests, a complete hemogram, liver function test, renal function test, serum electrolytes analysis, electrocardiogram, computed tomography/magnetic resonance imaging of the brain, electroencephalogram, thyroid function test, venereal disease research laboratory test, HIV test, measurement of Vitamin B12 levels, folate levels, lipid profile, and homocysteine level[16].

Landmark Cases:

1. Gaurav Kumar Bansal v. Union of India[17]

Advocate Gaurav Bansal has submitted a Public Interest Litigation (PIL) to the Supreme Court, alleging non-compliance by insurance companies with the provisions outlined in "section 21(4) of the Mental Healthcare Act, 2017". A panel consisting of three judges, with Justice R. F. Nariman as the lead judge, declared that both the Insurance Regulatory and Development Authority of India (IRDAI) and insurance companies had failed to execute any of the circulars issued by the IRDAI. Consequently, the court issued a formal communication to the pertinent entities, encompassing the government and IRDAI, urging them to diligently scrutinize the circumstances and undertake requisite measures to safeguard those afflicted with mental health disorders.

2. Shikha Nischal v. National Insurance Company Limited & Anr.[18]

A female petitioner lodged a writ petition after her health insurance claim, intended for the treatment of her mental condition, was denied. The petitioner made a payment of Rs. 3,95,000 to the National Insurance Company Limited (NIC) on May 29, 2020, in exchange for a National Mediclaim Policy that remains valid for a duration of one year. After being admitted to the hospital, she accrued costs amounting to Rs. 5,54,636 a few days subsequent to receiving a diagnosis of ‘schizoaffective disorder’ NIC cited a policy exclusion section that explicitly indicated the denial of coverage for "Psychiatric disorder, purposeful self-inflicted harm" as

[16] Sahithya, B. R., and R. P. Reddy. "Burden of mental illness: A review in an Indian context." International Journal of Culture and Mental Health 11.4 (2018): 553-563.
[17] Writ Petition (Civil) No. 539 of 2021
[18] W.P.(C), 3190 of 2021

the basis for rejecting the insurance claim. Ultimately, the Court rendered a decision holding NIC accountable for the petitioner's claim due to its failure to adhere to the provisions outlined in Section 21(4) of the MHCA. The court has mandated that NIC (National Insurance Company) provide an additional amount of Rs. 25,000 as reimbursement for litigation expenses to the petitioner. This ruling was made due to the petitioner's necessity to pursue legal action in order to have her claim acknowledged, despite NIC having already fulfilled the petitioner's initial claim of Rs. 3,95,000 as per the directives of the Insurance Regulatory and Development Authority of India (IRDAI). The court additionally determined that all insurance providers were obligated to enforce "Section 21(4)" of the Mental Health Care Act (MHCA) from the day it became effective. This implies that any health insurance policies issued subsequent to that date would be mandated to include coverage for mental illness, irrespective of any other circumstances.

3. Subhash Khandelwal v. Max Bupa Health Insurance Company Limited

The petitioner in question acquired an insurance policy from the company "Max Bupa" that entailed a guaranteed amount of Rs. 35,00,000. The petitioner expressed that he was informed about a provision within the insurance that would decrease the assured amount to "INR 50,000" along with specific additional limitations that contradicted "Section 21 (4) of the Mental Healthcare Act" at the time of submitting his claim pertaining to mental illness[19].

During its initial statements, the Court emphasized that the policy in question lacks comprehensive coverage and explicitly excludes various categories of mental diseases. The issue at hand remains under judicial scrutiny, and the court has acknowledged the need to address this problem because to the significant impact it has had on numerous individuals. Additionally, the court has issued a notice to the Insurance Regulatory and Development Authority (IRDA) requesting an explanation about the criteria employed in the approval of those policies.

ISSUES AND CHALLENGES

Ushering the era of health insurance for psychiatric illnesses is a welcome change that the MHCA 2017 has brought about. This step is no doubt a boost to the rights-based approach for PMIs. However, the challenges and issues of insurance for mental illnesses and its coverage

[19] W.P.(C) 4010/2021 [2021] -SC 1576 (10 December 2021)

brings in a host of clinical/social factors that need consideration. Some of them are discussed here[20].

- Long duration of treatment

Insurance companies in India have a greater level of familiarity with developing insurance plans that specifically address instances of disease, particularly those requiring hospitalization. The management of the majority of physical ailments often necessitates a hospital stay lasting several days, however individuals with psychiatric and mental disorders (PMIs) may require hospitalization for a duration spanning from a few weeks to several months. Further clarification is necessary about the duration of the waiting time for the inclusion of specific mental diseases into the scope of coverage.

- Willful noncompliance to treatment by patients

The effective management of physical ailments is contingent upon the patient's voluntary commitment to adhere to the prescribed treatment plan. In numerous psychiatric medical institutions (PMIs), the administration of treatment is conducted without the explicit consent of the patients, hence introducing complexities associated with noncompliance. This disobedience, in turn, might result in recurring episodes of illness and a heightened frequency of hospital admissions. Another ethical quandary that may develop within the framework of the Mental Health Care Act (MHCA) of 2017 is to the newly granted authority of Psychiatric Medical Institutions (PMIs) to establish an "advance directive." This directive allows individuals to articulate their preferences regarding the desired course of treatment as well as the treatments they wish to decline.

- Reimbursement for complications

The MHCA 2017 focuses significant emphasis on upholding the autonomy and rights of individuals with mental illness. Furthermore, it provides individuals with the opportunity to decline medical intervention. In the event that the condition remains untreated and subsequently results in further detriments to overall health, such as inadequate nutritional intake or substandard personal cleanliness due to the untreated mental illness, is it justifiable for the insurance company to provide compensation?

- Pre-Existing Illnesses and Underwriting Involved

[20] Sharan, Pratap, and Saurabh Kumar. "Bridging the mental health gap in India: Issues and perspectives." Child and adolescent psychiatry: Asian perspectives (2016): 463-478.

Insurance companies assign predicted premium values to specific categories of physical conditions. The premiums are underwritten in accordance with the specified terms and conditions. The correlation between mental diseases and specific underlying illnesses or lifestyle habits cannot be definitively established. The process of underwriting becomes challenging due to the necessity of determining the criteria for implementing elevated insurance rates, when deemed necessary. The current provisions of the Mental Health Care Act are insufficient in terms of safeguarding those who are at a heightened risk of developing mental diseases as a result of stress or other related circumstances.

- Suicide Attempts

The Mental Health Care Act of 2017 stipulates that those who have made a suicide attempt due to significant psychological distress should be offered appropriate care and treatment. Frequent occurrences of suicide attempts are commonly observed in individuals with mental problems. The legislation does not address the question of whether insurance companies should pay therapy for all suicide attempts or solely for individuals who have received a specific psychiatric diagnosis prior to their suicide attempt.

- Providing Access to Medical History to Insurance Companies

Insurance firms typically require access to individuals' medical information in order to assess insurance claims and calculate appropriate premium payments. For individuals with mental illness, it may be necessary to obtain a comprehensive medical history, including details of previous surgeries, therapies administered, and diagnostic methodologies employed. The Mental Healthcare Act does not specify the specific details of the manner and content of information that must be shared. According to Section 23 of the Act, individuals are granted the right to confidentiality. Nevertheless, the extent of information that must be disclosed and the information that can be withheld is not explicitly stated.

- Kind Of Treatments to Be Covered Under Insurance

A crucial consideration for insurance companies is the determination of the specific treatments that fall within the scope of coverage under mental health insurance. If one were to adopt a literal interpretation of insurance coverage on the "same basis" as physical disease, it would encompass situations that necessitate hospitalization and urgent medical attention. The resolution of a mental health condition necessitates a series of psychotherapy sessions. The healing process necessitates a significant duration. Hence, this anomaly presents a predicament

for medical insurance providers as they grapple with determining the criteria upon which they would extend coverage to policyholders, whether it be based on the duration of hospitalization or the overall expected duration of treatment. Regarding mental diseases, there are variations in the approaches of therapy. It is not reasonable to anticipate that a single patient will have the same degree of healing as others when subjected to identical treatment protocols. The legislation pertaining to the Mental Health Care act does not explicitly address this issue. This situation creates an inequitable landscape wherein insurers possess a favourable position to exploit the existing legal loophole. Individuals possess the autonomy to determine whether to pursue personalized treatment options or adhere to widely approved therapeutic approaches for individuals with mental illness.

Challenges:

1. **Social and cultural factors influencing mental health in India**

Societal Stigma and Discrimination-

In Indian society, there exists a notable social stigma around mental illness, resulting in discriminatory practices and the social marginalization of persons experiencing mental health issues. The perpetuation of negative attitudes and beliefs about mental illness frequently arises from misunderstandings, apprehension, and limited knowledge. The presence of this social stigma gives rise to obstacles in the process of seeking assistance and support, as individuals may experience apprehension, avoidance, or adverse outcomes due to the potential for judgment, rejection, or negative repercussions. As a result, individuals may exhibit a tendency to postpone or evade seeking medical intervention, leading to insufficient or delayed healthcare provision and subsequently worsening their condition[21].

Gender Inequalities-

The presence of gender disparities in India significantly influences the mental well-being of individuals. Women, specifically, have distinct obstacles and exhibit heightened susceptibility to mental health issues. Various factors, including but not limited to domestic violence, sexual abuse, imbalanced power relations, restricted educational and employment prospects, and societal norms, can lead to heightened levels of stress, anxiety, and depression in women. The phenomenon of intersectionality, which examines the interconnectedness of gender with

[21] Understanding the impact of stigma on people with mental illness. World Psychiatry. 2002

additional factors such as financial class and caste, serves to exacerbate existing gaps in mental health disparities[22].

Poverty and Socioeconomic Factors-

The presence of poverty and socioeconomic inequities in India significantly contribute to the development and worsening of mental health illnesses. The mental well-being of individuals is substantially affected by limited resources, such as inadequate access to quality healthcare, mental health treatments, and important social support systems. Elevated psychological distress and the susceptibility to mental health issues are influenced by factors such as challenging living situations, financial instability, and limited prospects for upward socioeconomic problems[23].

Rapid Urbanization and Migration-

The process of increasing urbanization and migration in India carries noteworthy ramifications for mental health. Urban environments frequently provide issues like social dislocation, the erosion of social support networks, heightened competition, and elevated stress levels. The phenomenon of migration, whether it involves the movement from rural to urban areas or within metropolitan areas, has the potential to disrupt social cohesion, conventional support systems, and overall stability. Consequently, this disruption can contribute to an elevated susceptibility to mental health problems[24].

Family Dynamics and Societal Pressure-

The mental well-being of individuals is influenced by the pressures exerted by family dynamics and cultural expectations. The presence of certain societal expectations pertaining to education, professional attainment, marriage, and gender norms can give rise to notable levels of stress and anxiety. Interpersonal conflicts, strained relationships, and dysfunctional family dynamics may also serve as contributing factors in the development of mental health disorders help[25].

Cultural Beliefs Surrounding Mental Illness-

[22] Malhotra S, Shah R: Women and mental health in India: an overview. Indian J Psychiatry. 2015

[23] Alegría M, NeMoyer A, Falgàs Bagué I, Wang Y, Alvarez K: Social determinants of mental health: where we are and where we need to go. Curr Psychiatry Rep. 2018

[24] Trivedi JK, Sareen H, Dhyani M: Rapid urbanization - its impact on mental health: a South Asian perspective. Indian J Psychiatry. 2008

[25] Jabbari B, Rouster AS: Family Dynamics. StatPearls [Internet]. https://www.ncbi.nlm.nih.gov/books/NBK560487/:

The cultural beliefs and traditional practices associated with mental illness exhibit considerable diversity across various areas and populations within India. The aforementioned ideas have the potential to impact individuals' tendencies to seek help, the strategies employed in therapy, and their overall understanding of mental health. In certain instances, cultural attitudes have the potential to stigmatize mental illness, impede open dialogue, and endorse detrimental behaviours or ineffectual therapies. This phenomenon has the potential to impede individuals' ability to obtain evidence-based healthcare services and sustain the ongoing cycle of mental health-related difficulties.

The Burden of Mental Health Issues on Individuals and Society-

Mental health issues impose significant burdens on both individuals and society at large within the context of India. Individuals afflicted with mental health illnesses frequently encounter a diminished quality of life, compromised functioning across multiple domains (including employment, interpersonal connections, and academic pursuits), and an elevated susceptibility to suicidal ideation or attempts. Mental health issues have been found to result in substantial reductions in production within society, primarily attributable to increased rates of absenteeism, diminished work performance, and development[26].

2. Access to mental healthcare in India

Shortage of Mental Health Professionals-

The current supply of mental health professionals, encompassing psychiatrists, psychologists, and psychiatric nurses, fails to adequately address the increasing need for mental healthcare services in India. The scarcity is notably conspicuous in rural regions, where there is limited availability of mental health experts. The inequitable allocation of services is a substantial obstacle for individuals in their pursuit of prompt and suitable mental healthcare[27]

Inadequate Infrastructure and Resources-

Mental healthcare facilities, particularly those situated in rural regions, frequently exhibit deficiencies in essential infrastructure, equipment, and resources, hence impeding their ability to deliver complete care. A scarcity of psychiatric hospitals, outpatient clinics, and community-

[26] Goetzel RZ, Roemer EC, Holingue C, et al.: Mental health in the workplace: a call-to-action proceedings from the mental health in the workplace-public health summit. J Occup Environ Med. 2018

[27] Raju NN: Psychiatry training in India. Indian J Psychiatry. 2022; Singh OP: Closing treatment gap of mental disorders in India: opportunity in new competency-based Medical Council of India curriculum. Indian J Psychiatry. 2018

based treatments is evident. The insufficient presence of suitable infrastructure is a barrier to the provision of mental healthcare services and constrains the ability to adequately address the varied requirements of individuals with mental health disorders[28].

Lack of Awareness and Stigma-

The underutilization of mental healthcare treatments in India can be attributed to a combination of limited awareness and extensive stigma around mental health disorders. The societal perception surrounding mental illness gives rise to instances of discrimination, social exclusion, and bias against persons who are seeking assistance. The presence of this social stigma serves as a deterrent for individuals to engage in open dialogue on their mental health issues and pursuing prompt intervention.

Insufficient Integration into Primary Healthcare-

The integration of mental health treatments into primary healthcare systems in India is insufficient. The absence of integration in mental healthcare leads to a fragmented approach, which poses obstacles to the early identification, timely intervention, and continuity of care for those with mental health issues. The segregation of mental health services from primary healthcare serves to foster the perception that mental health is distinct from physical health, hence perpetuating the existing treatment disparity.

Conclusion:

The study on mental health insurance coverage in India reveals a complex landscape marked by evolving legislative frameworks, persistent social stigma, and significant systemic challenges. Despite progressive steps such as the enactment of the Mental Healthcare Act, 2017, which mandates parity in insurance coverage for mental illnesses comparable to physical illnesses, implementation gaps remain. The legal provisions have set a foundation for the recognition of mental health as a critical component of overall health, emphasizing patients' rights and non-discrimination. However, barriers including limited awareness, entrenched cultural stigmas, inadequate infrastructure, a shortage of qualified mental health professionals, and regulatory inconsistencies hinder effective insurance coverage and claims processing. Moreover, insurers face challenges in underwriting mental health risks due to treatment variability and long-term care requirements. Government initiatives such as Ayushman Bharat

[28] Thornicroft G, Deb T, Henderson C: Community mental health care worldwide: current status and further developments. World Psychiatry. 2016

Pradhan Mantri Jan Arogya Yojana show promise in expanding mental health service access, but further policy clarity and enforcement are needed. The judicial interventions underscored the need for compliance by insurance providers, reinforcing legal protections. To bridge these gaps, multi-pronged strategies involving enhanced workforce training, increased funding, decentralized service delivery, technological innovations, and sustained stigma reduction campaigns are essential. Engagement of communities and affected individuals in policy formulation and implementation is critical to ensure adequacy and accessibility. This research validates the hypothesis that legislative advancement alone cannot guarantee improved mental health insurance coverage without addressing socio-cultural and operational impediments. It advocates for holistic reforms aimed at equitable mental healthcare financing, ultimately contributing to the broader objective of universal health coverage in India.

Suggestions:

1. Increasing the mental health workforce through expanded training and incentives to serve underserved areas is critical for better care.
2. Enhancing continuing education and capacity-building ensures quality, culturally appropriate diagnosis and treatment.
3. Decentralizing services to rural and remote areas reduces urban-rural disparities in mental healthcare access.
4. Promoting public-private partnerships and leveraging technology—including Tele-MANAS app and telemedicine—expand mental health reach.
5. Policy priorities include increased funding, robust regulation, intersectoral coordination, and active policy implementation for equitable care.
6. Engaging community leaders and persons with lived experience strengthens mental health support systems and reduces stigma.

BIBLIOGRAPHY

1. Alegría, M., NeMoyer, A., Falgàs Bagué, I., Wang, Y., & Alvarez, K. (2018). Social determinants of mental health: Where we are and where we need to go. *Current Psychiatry Reports.*
2. Bijal, A. Sangoi, et al. (2019). Health insurance and mental illness. *Indian Journal of Psychiatry*, 61(Suppl 4), S791.

3. Dey, S., & Mellsop, G. (2023). Colonization, history and the evolution of mental health legislation in India, Pakistan, Sri Lanka and Bangladesh. In *Routledge Handbook of Mental Health Law* (pp. 527–539). Routledge.
4. Firdosi, M. M., & Ahmad, Z. Z. (2022). Mental health law in India: Origins and proposed reforms. *International Journal of Health Sciences*, 6(S1), 9775–9786. Retrieved from https://media.neliti.com/media/publications/577881-mental-health-law-in-india-cdac1205.pdf
5. Gary, F. A. (2005). Stigma: Barrier to mental health care among ethnic minorities. *Issues in Mental Health Nursing*, 26(10), 979–999.
6. Ghosh, M. (2021). Mental health insurance in India: Lack of parity. *The Lancet Psychiatry*, 8(10), 860. https://doi.org/10.1016/S2215-0366(21)00287-X
7. Ghosh, M. (2021). Mental health insurance scenario in India. *Psychiatry Research*, 309, 114396. https://doi.org/10.1016/j.psychres.2021.114396
8. Ghosh, M. (2025). Insurance coverage for mental illness: A review through a bioethical lens and the Mental Healthcare Act, 2017. *Indian Journal of Medical Ethics.* Retrieved from https://ijme.in/articles/insurance-coverage-for-mental-illness-a-review-through-a-lens-of-bioethics-and-the-mhca-2017/
9. Goetzel, R. Z., Roemer, E. C., Holingue, C., et al. (2018). Mental health in the workplace: A call-to-action. *Journal of Occupational and Environmental Medicine.*
10. Grover, S., et al. (2018). Clinical practice guidelines for management of depression. *Indian Journal of Psychiatry*, 60(Suppl 2), S341–S388.
11. Gupta, S., & Sagar, R. (2018). National Mental Health Programme—optimism and caution: A narrative review. *Indian Journal of Psychological Medicine.*
12. Gupta, S., & Sagar, R. (2022). National Mental Health Policy, India (2014): Where have we reached? *Indian Journal of Psychological Medicine*, 44(5), 510–515.
13. Jabbari, B., & Rouster, A. S. (2020). Family dynamics. *StatPearls [Internet]*. Retrieved from https://www.ncbi.nlm.nih.gov/books/NBK560487/
14. Malhotra, S., & Shah, R. (2015). Women and mental health in India: An overview. *Indian Journal of Psychiatry.*
15. Math, S. B., Murthy, P., & Chandrashekar, C. R. (2018). Mental Health Act (1987): Need for a paradigm shift from custodial to community care. *Indian Journal of Medical*

Research, 148(S1), S1–S3. Retrieved from https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6201661/

16. Math, S. B., et al. (2019). Prevalence, pattern and outcomes of mental disorders in India: Results from the National Mental Health Survey 2015–16. *Indian Journal of Psychiatry*, 61(6), 537–546.
17. Murthy, P., et al. (2016). Mental health and the law: An overview and need to develop and strengthen the discipline of forensic psychiatry in India. *Indian Journal of Psychiatry*, 58(Suppl 2), S181.
18. Murthy, R. S. (2017). National Mental Health Survey of India 2015–2016. *Indian Journal of Psychiatry*, 59(1), 21–26. https://doi.org/10.4103/psychiatry.IndianJPsychiatry_102_17
19. Nambi, S. (2015). National Mental Health Policy of India: A time to reboot. *Indian Journal of Psychiatry*, 57(4), 315–321.
20. National Institute of Mental Health and Neuro Sciences. (2016). *National Mental Health Survey of India, 2015–16: Summary*. Bengaluru: NIMHANS. Retrieved from https://indianmhs.nimhans.ac.in/phase1/Docs/Summary.pdf
21. Pandya, A., Shah, K., Chauhan, A., & Saha, S. (2020). Innovative mental health initiatives in India: A scope for strengthening primary healthcare services. *Journal of Family Medicine and Primary Care*.
22. Patel, V., Saxena, S., Lund, C., Thornicroft, G., Baingana, F., Bolton, P., ... & Unützer, J. (2016). Addressing the burden of mental, neurological, and substance use disorders: Key messages from Disease Control Priorities. *The Lancet*, 387(10028), 1672–1685. https://doi.org/10.1016/S0140-6736(15)00390-6
23. Prinja, S., Kumar, M., Pinto, A. D., Jan, S., & Roberts, B. (2019). Mental health insurance in India: A review of four pilot programs. *Health Policy and Planning*, 34(9), 667–673.
24. Raguram, R., et al. (1999). Stigma, depression, and somatization in South India. *American Journal of Psychiatry*, 156(4), 654–657.
25. Raju, N. N. (2022). Psychiatry training in India. *Indian Journal of Psychiatry*.
26. Reddy, K. S., et al. (2019). Mental health and health insurance in India. *The Geneva Papers on Risk and Insurance – Issues and Practice*, 44, 647–669.

27. Sagar, R., Dandona, R., & Gururaj, G. (2020). Prevalence of mental and behavioural disorders in India: A meta-analysis. *Indian Journal of Psychiatry*, 62(Suppl 2), S302–S313.
28. Sagar, R., & Singh, S. (2023). National Tele-Mental Health Program in India: A step towards mental health care for all? *Indian Journal of Psychiatry*, 64(2), 117.
29. Sahithya, B. R., & Reddy, R. P. (2018). Burden of mental illness: A review in an Indian context. *International Journal of Culture and Mental Health*, 11(4), 553–563.
30. Saxena, S., et al. (2007). Resources for mental health: Scarcity, inequity, and inefficiency. *The Lancet*, 370(9590), 878–889.
31. Sharan, P., & Kumar, S. (2016). Bridging the mental health gap in India: Issues and perspectives. In *Child and Adolescent Psychiatry: Asian Perspectives* (pp. 463–478).
32. Singh, O. P. (2018). Closing treatment gap of mental disorders in India: Opportunity in new competency-based Medical Council of India curriculum. *Indian Journal of Psychiatry.*
33. Sood, S. (2022). India: Mental Healthcare Act: A legislation for the people. *International Journal of Health Sciences*, 6(S1), 9775–9786. Retrieved from https://sciencescholar.us/journal/index.php/ijhs/article/view/13499
34. Thornicroft, G., Deb, T., & Henderson, C. (2016). Community mental health care worldwide: Current status and further developments. *World Psychiatry.*
35. Trivedi, J. K., Sareen, H., & Dhyani, M. (2008). Rapid urbanization—its impact on mental health: A South Asian perspective. *Indian Journal of Psychiatry.*

*****