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BHOPAL OMBUDSMAN CENTRE

Case No.: GI/NIA/0808/64

Shri Hari Vallabh Nagar v/s The Oriental Insurance Co. Ltd., Indore

Order No.: BPL/GI/0809/33 Order Date:- 4.12.2008

Brief Background

Mr.Hari Vallabh Nagar was covered under Overseas Mediclaim policy No. 151100/2008/21B-13/hti/552348 for S.I of US$ 100000.00 for Treatment for Accident and US$10000.00 for Treatment for illness for the period 20/06/2007 to 10/07/2007 (for his tour to USA) from The Oriental Insurance Co. Ltd., D.O.151100, Indore

As per the Complainant, he was admitted in Saint Francis Memorial Hospital, SanFrancisco, USA on 29.06.2007 and was discharged on 07.04.2007 due to sudden variceal bleeding and claimed for US$ 60181.56 but the Respondent settled his claim for US$ 10000.00 after deducting necessary deductibles being maximum Sum Insured under policy for Treatment for Illness. He also added that there was no symptoms prior to this incidents and also that there was no abnormality during Medical investigation arranged on 8.6.2007 before taking the above mentioned Insurance Policy. He also emphasized that the treatment for above internal bleeding is an accidental happening but the Respondent paid US $ 10000.00 as against US $ 100000.00, which is not justified.

As per self contained note of Respondent, the patient was admitted in Hospital for complain of Red Blood vomiting, Low B.P. Dr. diagnosed G.I.Bleed secondary to esophageal voices, Anemia, Syncope liver failure etc. and the claim for US$ 10000.00 settled because illness is restricted up to above limit under the policy. Respondent also clarify that Illness can occur any time due to any changes in body where as accident means bodily injury resulting directly and solely due to accident caused by

external violent and visible means therefore, the above case is treated as illness and not due to accident and the claim is paid as per the policy conditions.

Observations:

On going through the various Medical documents submitted by complainant and Respondents especially the Discharge Summary under the head of Preliminary report of Saint Francis Memorial Hospital, San Francisco, and observed that the complainant was brought to the emergency department on 28.6.2008 after a syncopal episode lasting appx. 30 seconds where he was treated for the above problem and later on after investigation in the hospital he found with the problems of anemia, Hypotensive to 96/60, the upper endoscopy revealed at least 4 esophageal varices, which were banded by the hospital. There was no document found which can establish that the above problems are due to accident or injury. On asking from the Complainant about any accident or injury before the above Variceal bleeding started, he replied that there was no accident just before the above problems On asking from **Respondent** about the meaning of 'treatment for **Accident'** it is described that **accident** means "bodily injury resulting solely and directly from accident caused by external violent visible means and not because of sudden changes in body.

Decision:-

Under the circumstances explained above the decision of settlement of Claim for US$ 10000.00 by the Respondent found just & fair as the Treatment was for illness and not because of any consequence of accident or bodily injury. The suddenly occurrence of disease in the body does not find under the category of Accident. Therefore, the complaint is dismissed without any relief.

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Chennai Ombudsman Centre
Case No.IO(CHN) 11.14.1462/2008 – 09
Mr. Venkatraman Ganesan
Vs
Cholamandalam MS General Insurance Co. Ltd
Award No.104 dated 20/03/2009

The Complainant had taken travel insurance policy of the insurer and traveled to USA. During the travel abroad, he was hospitalized for breathing discomfort on two occasions. Although the first claim was settled, the insurer on the grounds of pre existing disease rejected the second claim for pain in the left shoulder combined with chest pain.

The point to be considered is whether the rejection of the claim by the insurer on the grounds of non-requirement of hospitalization and also the insured was suffering from a pre existing condition is in order.

It is seen that as per the medical history recorded in the hospital at the time of admission, complainant had a "drug eluting stent placed in the mid left anterior vessel" categorized as having a "history of cardiac disease."

The complainant had been on medical management at the time of taking the policy as well as during the travel abroad. His medical condition was such that he had to be extensively evaluated on 15th July 2007 as well as in Oct 2007. It is established that the condition that necessitated the hospitalization was directly related to the ailment suffered and he was on treatment prior to the travel abroad. Hence, the Complaint is dismissed.

Complaint No.IO/KCH/GI/11-014-170/2008-09

Shri Abi Paul N.
Vs
Cholamandalam MS General Insurance Co.Ltd.

AWARD DATED 31.10.2008

The mother of complainant, Smt.Mangalam Lissy, had taken a Travel Health Policy for the period 02.06.2007 to 20.10.2007, while undertaking a visit to USA. On 20.06.2007, she expired due to CAD. The claim was repudiated on the ground that pre-existing disease had caused the death of insured. As per the hospital report produced, insured died due to CAD and acute myocardial infarction. It was submitted by the complainant that she never had heart disease and the ailment occurred for the first time while she was in USA. The hospital records produced show that she was having myocardial infarction for 3 hours and CAD for years and also diabetes mellitus & hypertension, which are risk factors. As per policy condition, all pre-existing diseases and also all diseases caused due to any pre-existing condition also are excluded. Though diabetes and hypertension are distinct for CAD, they are risk factors as far as CAD is concerned. Diabetes and hypertension was existing at the time of taking policy. As all pre-existing diseases and all diseases arising out of pre-existing condition are not covered under the policy, the insurer is not under any legal obligation to honour the claim. The complaint is, therefore, **DISMISSED.**

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No.IO/KCH/GI/11-014-324/2008-09

Dr.Joseph Paul Kavalam
Vs
Cholamandalam MS General Insurance Co.Ltd.

AWARD DATED 06.01.2009

The complainant and his family had taken an International Travel Insurance Policy covering the period 07.04.2008 to 03.10.2008. On 210.06.2008, his wife consulted Dr.Andew Hudson. Then it was revealed that she had conceived and it was a normal pregnancy. The claim for medical expenses were repudiated on the ground that maternity expenses are not covered under the policy. It was submitted by the complainant that though maternity expenses are not covered under the policy, there are some exception to this exclusion. If the medical attention is unforeseen and is necessary to avert a clear and material danger to the insured's life or that of unborn baby, or to relieve acute pain, that expenses are covered under the policy. It was submitted by the complainant that the complications were unforeseen and they were not in a position to consult a doctor after reaching India. Hence he is entitled to get the claim. But it is to be noted that in order to be eligible for coverage under the policy, the medical attention must be unforeseen and also to divert a material damage to the insured or the unborn baby. Both conditions are to be satisfied. The records produced do not say any danger posed to the insured or unborn child. Instead it is stated that it is a normal pregnancy. Treatment procedure is noted as "Routine Ante-natal care". The prognosis is shown as "Excellent". As the policy condition is very specific that such claims are not covered under the policy, the complaint stands DISMISSED.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No.IO/KCH/GI/11-011-378/2008-09

John Chandy
Vs
Bajaj Allianz General Insurance Co.Ltd.

AWARD DATED 11.02.2009

The complaint had taken a Travel Age Plan from Bajaj Allianz General Insurance Co.Ltd. for the period 19.10.2007 to 17.01.2008 to undertake a journey to Australia. While in Australia, he was admitted to Royal Adelaide Hospital from 27.12.2007 to 31.12.2007 and undergone treatment for heart disease. The claim was repudiated on the ground that the insured was having heart disease at the time of taking the policy and hence the treatment was taken for a pre-existing condition which is excluded as per policy condition. However, it was submitted by the complainant that the illness has set in only after 70 days of reaching Australia and also that is due to extreme climate and fatty food of Australia. The hospital records produced shows that at the time of admission in hospital, he was a known case of IHD and also diabetic and hypertensive. In the hospital report, it was specifically stated that the treatment is for a pre-existing condition. At the time of admission in the hospital, he was a known case of Diabetes Mellitus and Hypertension. Also he has undergone angiogram in 1997. At the time of hearing, the complainant had admitted that he had undergone angiogram in 1997 and after that, he had taken allopathic medicines for 2 months and continued homeopathic treatment. The policy condition is very specific that any ailment arising out of an existing condition is not covered under the policy. The complaint is, therefore, DISMISSED.

OFFICE OF THE INSURANCE OMBUDSMAN, KOCHI

Complaint No.IO/KCH/LI/11-014-281/2008-09

Veliyath Paul Joy
Vs
Cholamandalam MS General Insurance Co.Ltd.

AWARD DATED 11.02.2009

The complainant had taken a travel policy under Silver 100000 from Cholamandalam MS General Insurance Co.Ltd. for the period 18.04.2007 to 10.07.2007. On 29.05.2007, he was admitted in Singapore General Hospital with complaint of chest pain and breathlessness. There CAD was diagnosed and he was discharged on 03.06.2007. The claim was repudiated on the ground that the treatment was for a pre-existing condition. As per policy condition, any disease arising out of a pre-existing condition is not covered under the policy. The insurance company produced hospital reports which show that the insured had earlier undergone left lower lobectomy for pulmonary hemorrhage. Also he had past history of hyperthyroidism. He had history of high blood pressure as early as 1999 and also high cholesterol level. He was admitted with complaint of chest pain and diagnosed to be CAD. It is a vascular disease. The 3 visible causes for damage to arteries are high cholesterol level, triglyceride in the blood, high BP and cigar smoke. Hospital records produced clearly show that the insured had all the symptoms in 1999 itself. Hence the treatment was taken on account of a condition that was in existence before taking policy. Policy condition is very specific that such treatments are not covered under the policy. The complaint is, therefore, **DISMISSED**.

Overseas Mediclaim Policy

Kolkata Ombudsman Centre
Case No. 304/11/005/NL/07/2008-2009
Shri Kanchan Basu
Vs.
The Oriental Insurance Co. Ltd.

Order Dated : 19.02.2009

Facts & Submissions :

This complaint was filed against repudiation of claim on the ground that the disease was pre-existing under Overseas Mediclaim Insurance policy.

The petitioner, Shri Kanchan Basu stated that he was covered by an Overseas Mediclaim Policy bearing No.121800/6231/1056889 issued by The Oriental Insurance Co. Ltd., Division IX, Mumbai through Trawelltag, Kolkata for the period 26.102007 to 15.11.2007 (21 days) when he was travelling to Sydney, Australia. During his stay at Sydney, he met with a serious injury to his toe fingers due to Blisters caused by inappropriate shoe size. The blisters got aggravated due to the long air travel. The condition was so serious that he had to admit himself in Westmead Hospital, Sydney and diagnosed there with special medicines and dressings. He was under the care and supervision of Dr. T. Daly who diagnosed him during hospitalization. An expense of Rs.1,41,527/- was incurred during his stay at hospital from 05.11.2007 to 09.11.2007. A claim form to this effect was issued by M/s. Karvat Travel Services Ovt. Ltd., Trawelltag, Kolkata which was submitted duly filled-in and signed to the insurance company for reimbursement. The claim was repudiated on 20.12.2007 by the TPA of the insurance Company, Heritage Health Services Pvt. Ltd., Mumbai on the ground that the disease was pre-existing and as per medical history he was a known patient of diabetes mellitus and hence claim was not payable under Overseas Mediclaim Policy. He represented against the decision of the insurance company in repudiating the claim vide his letters dt.10.01.2008 and 27.02.2008 respectively stating that the treatment taken in the hospital was not for diabetes but for Blisters caused by inappropriate size of shoe.

The Insurance Company stated that the said Overseas Mediclaim Policy was taken by Shri Kanchan Basu only for 21 days. After his return from Sydney, he lodged a claim with the insurance company through claim settling agent, Heritage Health Services Pvt. Ltd. for reimbursement which was incurred for hospitalization during his stay at Sydney. The insurance company opined that the complainant was having Diabetes Mellitus, Hypertension and high cholesterol which was not disclosed at the time of taking the policy. The situation was made urgent because of his diabetes which meant he required specialized treatment of antibiotics and appropriate dressings. On the basis of the opinion of the expert panel of the TPA, the insurance company came to a conclusion that the Ulcer was due to effect of all the above pre-existing diseases. Since the existing diseases were excluded from the scope of the policy, the insurance company had to repudiate the claim for non-disclosure of material facts at the time of taking the policy.

Decision :

Hon'ble Ombudsman felt that non-mentioning of D. M. and H.T.N. in the proposal form did not vitiate the contract because of the fact that the proposal form did not have any questionnaire on the symptoms like D. M. and H.T.N. This office always held that D. M. and H.T.N. was symptoms not diseases per se. Therefore, he felt that delay in curing of blisters due to D. M. should not be treated as pre-existing of the disease. In fact it was felt

that blisters could not be a disease and curing of the same might have been delayed due to D. M., but it could not be held as pre-existing disease before inception of Overseas Mediclaim Policy. Therefore, he was of the firm opinion that the claim for reimbursement of expenses due to hospitalization abroad for curing the blisters caused by inappropriate size of shoe was exigible. Therefore, he directed the insurance to pay the claim.

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Kolkata Ombudsman Centre
Case No. 382/11/004/NL/08/2008-09
Shri Bhag Chand Jain
Vs.
United India Insurance Company Ltd

Order Dated : 19.01.2009
Facts & Submissions :

This petition was against repudiation of claim under Overseas Mediclaim Policy (OMP) issued by United India Insurance Company Ltd. as per the policy norms of the coverage.

The petitioner Shri Bhag Chand Jain stated that he had taken Overseas Mediclaim Policy (OMP) from United India Insurance Company Ltd for the period 20.10.2006 to 19.10.2007 for US $ 5,00,000/- after submitting all the required reports and this policy was in continuation to similar policy that he had taken in the earlier year. He left Kolkata for USA on 17.11.2006 and on 3rd December 2006 he suddenly started feeling acute tingling sensation in the arms due to which he rushed to Emergency Department of the Mount Sinai Hospital for check up on 04.12.2006 when it was detected that he had heavy blockade in both Carotid Arteries. He was hospitalized immediately on emergency basis and the stenosis was done on the same. He made a claim with the TPA of the insurance company on 04.12.2006.

After a lapse of 6 months he suddenly got a letter dated 21.05.2007 from Heritage Health Service Pvt. Ltd. stated therein that his claim was not admissible. In this connection he had made several correspondences with the TPA as well as the Grievance Cell of United India Insurance Company Ltd. but of no avail.

He further stated that since he had been travelling to the foreign countries since 1989 and for every trip in the past he had taken foreign travel insurance policies for the maximum available amounts. He took CFT mediclaim policy for the present case and no claim was raised against any other foreign travel taken since 1989.

Besides he had been continuously insured under the mediclaim policy for the maximum available amounts from United India Insurance Company Ltd., D.O.V, Kolkata.

United India Insurance Company Ltd. in the said self-contained note they had not given their observation on the repudiation decision taken by their TPA. Instead they had enclosed several correspondences which took place between the TPA and the complainant.

However, on going through the correspondence it revealed that the insured had taken OMP from United India Insurance Company Ltd. from 18.10.2004 to 17.10.2005 and 17.10.2005 to 16.10.2006 and 20.10.2006 to 19.10.2007. Apart from this he had taken individual mediclaim policy with their company since 1988. The complainant had made a claim with Heritage Health Services Pvt. Ltd., the TPA of the insurance company on 04.12.2006. Heritage Health Services Pvt. Ltd. vide their letter dated 21.05.2007 informed the insured that he had past medical history of Angioplasty in 1997, Inguinal Hernia Surgery. On evaluation of the claim on the basis of documents provided by the insured their medical panel had opined that he had long standing past medical history of circulatory disorders. The treatment taken during his visit abroad was related to circulatory disorders and hence should not be considered admissible. The policy carried specific exclusion of all medical expenses incurred directly due to past history ailment and any consequences attributable to, accelerated by or arising there-from as per the medical history. As against their repudiation they had received a letter dated 21.06.2007 from the complainant stated therein that while taking the policy all the pre-existing diseases viz. Cardiac Angioplasty performed at B.M.Birla Heart Research Centre in 1997, Cataract operation in left eye in 2000, Cataract operation in right eye in 16.02.2002 and Right Inguinal Hernia operation on 26.06.2005 at Belle Vue Clinic, Kolkata were disclosed and the policy was issued after submitting ECG, Blood & Urine reports. Accordingly, the policy was issued to him excluding cardiac angioplasty and right inguinal hernia. He had undergone treatment at New York Hospital on emergency basis and attending doctors diagnosed and performed carotid artery stenosis which was not related to heart or hernia.

On 26.06.2007 the TPA of the insurance company refuted the contention of the insured stating that "*heart and circulatory disorders are interlinked and any symptoms of the heart are a sign of the circulatory problem throughout the body. Since the heart is the base of the circulatory system. Any ailment or treatment of the heart or any other ailment of the circulatory system prior to taking the policy carries a policy exclusion of heart and circulatory disorders and complications and consequences of the said ailment".*

Since the insured had an angioplasty done which was related to the circulatory system specific exclusion clause was invoked for the charges for the complications and consequences of the heart and circulatory disorders and the treatment for the same in his case Carotid Artery Stenosis. All the investigations were related to the specific exclusion, mentioned in the policy and as such they would not be in a position to consider the claim admissible.

The insured had given a reply to the T.P.A vide letter dated 02.08.2007 wherein he stated that there was no evidence documented or otherwise of pre-existing disease (Carotid Artery Stenosis) which was the reason for which he was treated by a Stenting Procedure. The complainant also stated that he had no past history of Circulatory Disorder and Coronary Angioplasty he had in 1997 was a disease of the Coronary arteries affecting the blood vessels of the heart. Therefore the TPA's contention that Coronary Artery disease in the past was directly related to his present illness or had accelerated the same i.e. Carotid Artery Stenosis was not tenable. Besides, Carotid Artery Stenosis was done in 2006 i.e., 9 years, after he had Coronary Angioplasty. Further policy conditions indicate very clearly that as per General Conditions Applicable to all Sections Sl. No. 10 (c)

Pre-existing condition :-
"Any sickness for which the insured person has sought medical advice or has taken medical treatment in the proceeding 12 months prior to the commencement of travel".

TPA vide letter dated 06.08.2007 again confirmed their decision of repudiation. Thereafter, two more correspondences were there between the complainant and TPA which could not bring forth any new points.

As against the contention of the TPA the complainant had made a representation to the DGM vide letter dated 18.09.2007 and no reply to the said letter by the insurer had been found along with the self-contained note.

In the said self-contained note insurer mentioned pre-existing disease condition no. 10(b) (c) 1 (c) and stated that there was no delay in intimating the outcome of the claim repudiation to the claimant.

DECISION:

Hon'ble Ombudsman was not agreed with the logic of the insurance authorities for declining the claim of the complainant. The complainant had a sudden and unexpected sickness with regard to Carotid Artery which was definitely not connected with any heart disease and simultaneously he was not suffering from any disease for 12 months prior to the inception of the OMP because the past ailment of Coronary Artery disease was treated in 1997 as Coronary Angioplasty. Similarly hernia which was not a disease (as decided by this office in many cases) was also suffered beyond 12 months before the inception of the policy. He did not find any logic for treating the Carotid Artery Blockade as a pre-existing disease bringing it under the umbrella of Cardiac diseases which were excluded for the OMP.

Keeping in view the above that the claim was exigible and arguments put forward by the insurance company were not tenable. He, therefore direct the insurance company to settle and pay the claim as per terms and conditions of the policy.
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