

THE LEGAL FRAMEWORK FOR MANDATORY HEALTH INSURANCE AMONG PUBLIC SERVICE WORKERS IN NIGERIA*

Abstract

Public service workers are those who carry out the responsibility of the government; they are often classified as staff. They occupy career positions of responsibility, and are entitled to official benefits which if not guaranteed can affect productivity and output. One of these benefits is the establishment of the NHIS scheme by the Federal Government to provide healthcare services for public service workers at an inexpensive cost, since it was discovered that with the fixed and low income, majority of the public service workers cannot boast of meeting their basic medical needs. They are daily confronted with the condition of high cost of drugs and medical services which are not easily affordable. Regrettably, these expectations of the workers have changed over time. Even though the Government made the NHIS scheme mandatory for civil servants yet the health services provided for under scheme are limited. The paper, therefore, discusses the legal framework for the mandatory health insurance among public service workers in Nigeria. It identified the health services provided under NHIS scheme and those provided under the statutory health insurance scheme in Germany. What is found is that the health services excluded under the NHIS scheme are the health services mostly needed by public service workers. The paper finds that the German statutory health insurance provides for more health services than Nigeria, The paper also finds that a lot of public service workers in Nigeria are not satisfied with the health services provided for under the NHIS scheme. As a pathway to its success, the paper suggests expansion of the scheme to cover more health challenges.

Keywords: Mandatory Health Insurance, Public Service Workers, Legal Framework, Nigeria

1. Introduction

One of the cardinal objectives of good government is to have effective healthcare delivery system put in place for the entire citizenry. A healthy nation is a wealthy nation because of the absence of debilitating diseases and epidemics in such a country, which, along with hunger and squalor, impoverishes the citizenry.¹ Ensuring adequate nutrition, high life expectancy, and very low incidence of epidemics and diseases has been acknowledged as most important duty of any government. Unfortunately, accessing good quality health care has been a bane in Nigeria to both the people and the government. Over the years, there has been a rise in Nigeria's poverty level.² Consequently, the ability to afford basic healthcare for common illnesses by the average Nigerian reduced drastically and in more extreme illnesses, citizens had to resort to sale of personal effects and/or real property, rely strongly on personal savings and/or resort to taking loans in order to be able to attend to their health needs adequately.³ The efforts to improve healthcare services and reduce health cost in Nigeria led to the establishment of the National Health Insurance Scheme (NHIS), which was formally launched in 2005, in a bid to improve accessibility. The establishment of the Nigerian Health Insurance Scheme was the Government effort towards improving the quality, availability and affordability of medical services to its citizenry. The main essence of health insurance is to provide cover against financial cost of healthcare services. The scheme promises to play a prominent role in allowing all citizens to be included in the opportunity set for improving access and affordability to healthcare services, hence contributing to growth.

The Act (Act No. 35 of 1999) establishing NHIS became operational in 2005 with the primary goal of improving the health status of Nigerian citizens as a significant co-factor in the national poverty eradication efforts. Nigeria has three levels of government: Federal (Central), state, and local government areas, and each level of government has its workers. Furthermore, the central government has institutions in each of the 36 states of the federation, with federal employees working in those institutions. With the formal sector health insurance programme, which was designed to ensure that every federal government employee including their spouse and four biological children have access to good healthcare services and benefit from social health insurance programme⁴, there was compulsory enrolment of all employees in the public sector as part of the formal sector programme of the scheme.⁵

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¹ R Nwatu, (2000:12) Making the health system Effective Medical Journal. Jan.

² Statistics from Nigeria's National Bureau of Statistics show that the poverty index of the country between the early 80s and the mid-90s progressed from 27.2% to 65.6%. See Zunumhan Da- pel, 'Poverty in Nigeria: Understanding and Bridging the Divide between North and South' (Center for global development, 6th April) <<https://www.cgdev.org/blog/poverty-nigeria-understanding-and-bridging-divide-between-north-and-south>> accessed 20 September, 2020.

³ A. O. Abiola et al., 'Knowledge and utilisation of National Health Insurance Scheme Among Adult Patients Attending a Tertiary Health Facility in Lagos State, South-Western Nigeria' [2019] 11(1) *African Journal of Primary Healthcare & Family Medicine*.

⁴ NHIS. NHIS – News: States Partners with NHIS. 2009 [cited 2018 Feb 10]. Available from: <http://www.nhis.gov.ng/index.php?>

⁵ J Falegan. Healthcare financing in the developing world: Is Nigeria's health insurance scheme a viable option? *Jos J Med.* 2008; 3:1–3.

The services for the beneficiaries of the federal civil service included only maternity care for up to 4 live births for every insured contributor/couple; provision of preventive care for registered employees such as immunization programme, post-natal care and family planning services, eye examination, as well as the opportunity to make consultations with specialists or referral for specialized investigations for medical/surgical reasons or other services such as diagnostic or physiotherapeutic services⁶ has been subject to many critics.

The objective of this study is to examine the rationale for the mandatory/compulsory enrolment of public service workers of the NHIS scheme vis-a-vis the available services for beneficiaries of the NHIS scheme in order to determine whether the scheme is achieving its goal, with a bid to proffer appropriate recommendations towards its sustainability, effectiveness and efficiency.

2. The Concept of Health Insurance

Health insurance is a social security mechanism that guarantees the provision of needed health services to persons on the payment of some amount at regular intervals. It is designed to pay the costs associated with health care by paying the bills and therefore to protect people against high cost of health care by making payment in advance of falling ill. The scheme therefore protects people from financial hardships occasioned by large or unexpected medical bills. It saves money on the short run and protects the poor from medical conditions that can lead to greater loss of money on the long run.⁷ It involves pooling of resources from persons of different illness-risk profiles and the cost of the risk of illness among those who are ill and those who are healthy, are shared. It has three main characteristics- prepayment, resource pooling and cost-burden sharing. Pre-payments under the scheme are fixed either as a proportion of the pay-roll, or as flat rates contributed by the participants. This means that payment is not proportional to the risk of illness of individual beneficiaries. Many advantages accrue from participation in social health insurance. According to Nielson⁸, they include: broadening the sources of health care financing; reducing the dependence and pressure on government budget; increasing the financial resources and ensuring stable source of revenue for healthcare; ensuring visible flow of funds to the sector; assisting in establishing patients' rights as customers; combines risk pooling with actual support by allocating services according to need and distributing financial burden according to ability to pay; solves equity and affordability problem in providing and financing health services; and, improves and harnesses private sector participation in the provision of health services. Social health insurance schemes also enable experts to reasonably predict the healthcare cost of a large group. By lowering the personal costs of services, health insurance schemes induce individuals to seek health maintenance services more regularly than they otherwise would thereby preventing potentially serious illness.

3. Evolution of Health Insurance Scheme in Nigeria

The scheme is government's response to the decay in the health care system in Nigeria. This manifests in government's acknowledgement of the poor state of the health care delivery system (FGN, 2000). According to Dogo-Muhammed⁹, all these have a combined effect on the health care delivery system leading to the inability to 'deliver the optimum package of quality health care, including routine immunisation, emergency care, preventive and management of communicable and infectious diseases, especially malaria, tuberculosis and HIV/AIDS'. This ultimately led to expression of dissatisfaction in the quality of health care services by the public. The poor state of the health sector prompted the Federal government to initiate an all-embracing reform policy presented as 'a broad-based purposeful and sustainable fundamental change in the function, structure and performance of health system in order to deliver efficient, qualitative, affordable, effective and equitable health care services to the populace and ultimately improve the health status of the people'. The main thrust of the health policy therefore, is to provide a fundamental shift of government's perception of health, mode of delivering the services and the roles and responsibilities of each tier of government in providing better health care for Nigerians.

The health insurance scheme, as a health financing mechanism is located within the context of the health reform. The National Health Insurance Scheme (NHIS) was established under the National Assembly Act No. 35, 1999, by the Federal Government of Nigeria to improve the health status of Nigerians at an affordable cost. It must be noted that the idea of health insurance in Nigeria was first mooted in 1962 when the then Minister of Health, Dr Majekodunmi, presented a bill on it to the Parliament in Lagos. The bill did not pass through on the argument that the country did not have enough providers of quality health care services.¹⁰ However in 1988, the then Minister of Health, Professor Olikoye Ransome- Kuti set up a committee on the establishment of a health insurance scheme, the outcome of which was eventually approved by the Federal Executive Council in 1989 which directed the

⁶ NHIS. NHIS Handbook. Abuja, Nigeria. 2018 [cited 2018 Jan 25]. Available from <http://www.nhis.gov.ng>.

⁷ *The Nigerian Tribune*, 24, May, 2010. p.46

⁸ N L Nielson, (2009). Health Insurance: Microsoft Encarta.

⁹ M. B Dogo-Mohammad. (2007). Enhancing and Sustaining Health Services in the Public Sector: The Role of NHIS. Abuja. National Health Insurance Scheme

¹⁰ J Ana, (2010). Nigeria Healthwatch. Rejoinder. NHIS in Nigeria.Htm APRM (2008). Country Review Report. Federal Republic of Nigeria. APRM, Midrand, 1685, South Africa

Federal Ministry of Health to start the scheme in 1993¹¹. In establishing the scheme, government adduced the following reasons: The state of the nation's health care services was generally poor; There was excessive dependence on government-provided health facilities; There was too much pressure on government-owned health care facilities; There was dwindling funding of health care in the face of rising costs; There was poor integration of private health facilities in the nation's health care delivery system (NHIS, 2011).

The scheme has fully and effectively taken off, starting with the formal sector of the economy which is a social health security system in which the health care of workers in the formal sector of the economy is paid for from funds crated by pooling the contributions of both the employees and employers. As defined by the enabling law, the formal sector comprises: Public Sector; Organised private sector; Armed Forces, Police and Allied Services; Students of Tertiary Institutions; and Voluntary contributions.

4. National Healthcare Insurance Scheme Programmes

The National health insurance scheme Act classifies the NHIS Programmes into the following; i) Formula Sector Social Programme, which is design for public servants and employees in the organized private sector; ii) Urban self- employed social Health insurance Programme; iii) Rural Community Social health insurance programme; iv) Children under- five social insurance programme; v) Permanently Disabled persons social insurance programme; vi) Prison-inmates social insurance programme; vii) Tertiary institutions and voluntary participants social health insurance programme; viii) Armed forces polices and other unformed services social insurance programme; ix) Diaspora family and friends social insurance programme; x) International travel health insurance programme.

5. Public Service Workers and NHIS

The public service is one of the colonial legacies bequeathed to Nigeria by the British. The 1999 Constitution in Nigeria describes the public service as the 'service of the federal, states, and local governments'. Public service consists of the following core services: civil service, National and State Assemblies, the Judiciary, Armed Forces, the Police and other Allied or Security Services, Paramilitary services like the Customs, Prisons, and Immigration, and Parastatals like Educational Institutions, Research Institutions and Regulatory Agencies, etc.

It is a formal sector that is assigned the responsibility of carrying out the business of government. This business involves the implementation of government programmes and policies. Those who carry out the responsibility of the government in the public service are described as public service workers, and are often classified as staff. They occupy career positions of responsibility, and are entitled to official benefits which if not guaranteed can affect productivity and output. One of these benefits is the healthcare services that are expected to be utilized at inexpensive cost. Regrettably, these expectations of the workers have changed over time. The public service workers are continually faced with the challenges of high cost of medical bills and services, shortage of qualified medical personnel, decaying standard of infrastructure, and shortage of funds.¹² This unpleasant situation confronting the workers prompted the government to establish the National Health Insurance Scheme (NHIS) with the aim to achieve the following objectives:

- i) To ensure a fair distribution of healthcare services among workers in Nigeria.
- ii) To ensure that healthcare services are provided at reduced cost to workers.
- iii) To increase the confidence and morals of the private sector in order to promote effective participation in healthcare delivery service.
- iv) To ensure excellent standards and requirements for the healthcare services in Nigeria.
- v) To boost primary, secondary, and tertiary healthcare in Nigeria
- vi) To create awareness and voluntarily mobilize workers for healthcare services
- vii) To promote health education among workers in Nigeria.

These laudable objectives of the scheme were not however, implemented as expected due to some challenges. Indeed, since its establishment, many low income workers seem not able to benefit from the scheme perhaps because of increase in the cost of healthcare services. This situation could explain why many still patronize Traditional Medical Practice which is extremely cheap and easily affordable. Therefore, in view of government intention to handle the healthcare needs of the public service workers in the country, it introduced a health insurance scheme which seems wobbling and uncertain.

6. Healthcare services of National Health Insurance Scheme

¹¹D Adesina, (2009). The National Health Insurance Scheme. The Nigerian Doctor. Akintutire, F. A. (2008). Reforming the Reforms: The case of the Health Sector in Nigeria Anthropological and Sociological Association (NASA), held at the Uthman Dan Fodio University, Sokoto, 20th - 22nd August.

¹² F. O Eteng, U. Ijim-Agbor, ' Understanding the challenges and prospects of administering the national health insurance scheme in Nigeria' International Journal of Humanities and Social Science Research 2016 P. 43-45

According to the NHIS Act, the healthcare of the scheme to the beneficiaries includes the following: Out-patient care (including consumable); Prescribed drugs as contained in the NHIS; Diagnostic test as contained in the NHIS diagnostic test list; Antenatal care; Material care for up to four live births for every insured person; Post natal care; Routine immunization as contained in national programme on immunization; Family planning; and Consultation with a defined range of specialist e.g. physiatrists, etc.

7. Excluded Services from the NHIS scheme

According to the NHIS Act, the following are excluded from the NHIS services list: Occupational/industrial injuries; Epidermis; Injuries from extreme sports; Drug abuse/addiction; Cosmetics surgeries; High cost surgical procedures e.g. organ transplants open-heart surgeries, etc; Provision of hearing aids; Infertility management, and Congenital abnormality.

Arguments have been canvassed among civil servants on whether or not the health services provided under NHIS scheme are reasonable owing to the fact that the scheme is mandatory for public service workers. While some public service workers and also health seeking populace complains that some medical challenges presented are not accommodated. Others express satisfaction with the quality of outpatient care provided in their centres, as related to such factors as health personnel behaviours, prompt attention, communication/information and medical equipment. Most times there are situations where a public service worker or their kids are faced with a life threatening illness, but surprisingly on getting to the hospital they discover that the said illness is not covered under NHIS, this can be very frustrating and heartbreaking. This makes one question the NHIS scheme since the purpose of the scheme is to assist public service workers who are continually faced with the challenges of high cost of medical bills and services, and shortage of funds to ensure that there is a fair distribution of healthcare services among workers in Nigeria and ensure that healthcare services are provided at reduced cost to workers. The big question begging for answer is; if the health services provided under NHIS are very limited, why then is it mandatory for public service worker?

The writer opines that most of the health services excluded under NHIS programme are even where NHIS scheme are needed the most. For example; Epidermis, congenital abnormality, infertility management, high cost medical procedure, injuries from extreme sports etc. Imagine a public service worker who has or whose child has a congenital abnormality, or a public service worker who has infertility issues, or a public service worker who needs an organ transplant and also a public service worker with an emergency medical condition and even though the public service worker is covered under the mandatory NHIS scheme yet the scheme does not even cover the above mentioned cases. One would wonder the basis of the scheme being mandatory. Beyond its implication of popular dissatisfaction and participation, it is discriminatory in nature. In evaluating the National Health Insurance Scheme in Jos, Nigeria, Onyedibe, Goyit and Nnadi¹³ discovered the level of dissatisfaction with the scheme among the respondents sampled owing to unavailability of the required services. This gap is a policy problem. An exercise in policy adjustment to close this gap will restore hope and confidence in the system and eventual chances of achieving its objectives.

8. Echoes from Health Insurance in Germany

Everybody who is a resident in Germany is legally required to have health insurance. Under the law, you must have a policy with an insurance provider (called a Krankenkasse in German) that offers at least the minimum level of coverage allowed. There are three options for health insurance while living in Germany; the government regulated public health insurance system (Gesetzliche Krankenversicherung, GKV) Private health insurance from a German or International Insurance Company (Private Krankenversicherung, PKV) or a combination of the two that supplements coverage not included in your Public health insurance policy.¹⁴

Statutory Health Insurance in Germany

Germany's healthcare system is recognized to be one of the best in the world. Compulsory health insurance was introduced for all residents in the Federal Republic of Germany on 1st January 2009. Approximately 90% of citizens living in Germany are in the statutory health insurance (SHI) system.¹⁵ A further 9% have private health insurance (PHI), while 2% have company or trade insurance or are uninsured despite legal obligation (<1%). Joining the SHI scheme, as opposed to the private system, is obligatory for individuals, whose income is below a legally specified amount (income threshold in 2009: 4050 euros, assessment threshold: 3675 euros), unless they belong to a mandatory SHI- exempt professional group (see below). Within the SHI system, the insuree can choose between various health insurance companies and has also been free to switch between funds since 1996. At the same time, the statutory health insurance funds are contractually obliged to accept any applicant, regardless of

¹³ Onyedibe KI, Goyit MG, Nnadi NE. An evaluation of the NHIS in Jos, a North Central Nigerian city. *Global Advanced Research Journal of Microbiology*, 2012; 1(1):005-012.

¹⁴ German health insurance for foreigners, <https://www.academics.com/guide/health-insurance-germany>

¹⁵ A. Dorin, F. Paul 'The German Healthcare system' *EPMA Journal*, 2010.

health risk profile. The basic insurance cover provided by the statutory health insurance providers extends to the following services:

- i. outpatient medical treatment, for example, in doctors' surgery
- ii. dental care medication,
- iii. health remedies or medical aids in-patient medical treatment, for example in a hospital medically necessary rehabilitation measures benefits during pregnancy and childbirth

In Germany, a patient can get medical treatment in all public hospitals as well as majority of private hospitals. A patient with pre-existing condition is covered and does not need to pay extra. A person under the public health insurance have to pay 10euros per quarter for doctor's visits but if you do not visit the doctor that quarter year, you don't need to pay this. Also the scheme does not always cover the cost of hospitalization. A person who enrolls in the scheme often pays 10euros per night for 28days per year, but if your hospital stay exceeds 28days in a year, you do not need to pay. Although the medical provision provided by public healthcare insurance in Germany is fairly extensive, additional care may require additional payment. It is also possible to get an additional private health insurance plan that covers aspects of health which are not covered by the basic system, such as major dental work or a private room for a hospital visit.

9. Conclusion and Recommendations

The NHIS is a social security system put in place by the federal government to provide universal access to health care service in Nigeria. The scheme covers civil servants, the armed forces, the police, the organized private sector, students in tertiary institutions, self-employed, vulnerable persons, the unemployed among others. The paper discovered that the health services provided for public service workers under the scheme has been subject to many critics. The paper also revealed that public service workers under NHIS scheme are dissatisfied with the scheme owing to unavailability of the required services. This implies that if quality health services are made available to public service worker, the likelihood of their perception towards the scheme and consequent improved implementation will be high. This calls for a conscious delivery drive and intense quality services under the scheme. Hence, the paper recommends an expansion of the scheme to cover more health challenges just like in Germany. The management of NHIS to embark on an intensive enlightenment and awareness campaign of all stakeholders' regular interactive forum and seminars/workshops and as a matter of urgency put in place an effective monitoring and evaluation programme in order to gauge the utilization of the scheme and fine tune its operations as well as dispel dissatisfaction by enrollees.