POLICY BRIEF | AUG 2025 | PB/202508/01B

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Parity in health insurance coverage for mental illness:

Addressing non-compliance with Mental Healthcare Act, 2017

Introduction

Mental health conditions represent a significant public health challenge in India. The National Mental Health Survey, 2015-16 estimates that 10.6% of the population are living with a mental health condition, yet 80% of those in need do not receive adequate care[1]. The high cost of treatment remains a major barrier to mental healthcare access in India. These costs consist of hospitalisation, out-of-pocket (OOP) expenses for medication, travel, and loss of income due to illness, often reaching catastrophic levels. The 75th Round of the National Sample Survey (NSS), 2017-18, revealed the average cost of hospitalisation for psychiatric and neurological ailments was ₹26,843, with an average cost of ₹7,235 for services in public hospitals and ₹41,239 for private hospitals, comparable to costs associated with cardiovascular and musculoskeletal ailments[2]. The Economic Survey of 2021 also highlighted one of the highest levels of OOP expenditures on healthcare, leading to the high incidence of catastrophic expenditures and poverty[3].

Critical role of health insurance

Given these realities, health insurance to protect against sizeable treatment expenses is an essential tool for enabling access to timely and accessible mental health care

Parity as a right

The Mental Health Care Act, 2017 (MHCA) revolutionised India's approach to mental health, by aiming to protect and promote the rights of persons with mental illness. Section 21(4) of the Act mandates that "every insurer shall make provision for medical insurance for treatment of mental illness on the same basis as available for treatment of physical illness." This provision enshrines the principle of parity.

Despite this legal mandate and reinforcing circulars from the Insurance Regulatory and Development Authority of India (IRDAI), non-compliance by the insurers persists, forcing insurance policyholders to seek judicial interventions. This policy brief examines the existing violations in the parity principle through the lens of court cases and rulings. We also propose actionable policy recommendations to address these concerns.

Exclusion clauses for psychiatric treatment(i)

Many insurers have historically explicitly excluded coverage for psychiatric treatment, violating the MHCA's parity principle under section 21(4). Courts and consumer protection bodies have intervened to provide recourse when coverage is denied.

A recent example comes from the case of Nirankar Singh v. The Oriental Insurance Company Ltd. (2020, District Consumer Disputes Redressal Commission (DCDRC)), a quasi-judicial body.

The petitioner was denied a claim of ₹1,38,864 for treatment of their mental health condition, under an exclusionary clause for psychiatric disorders. The DCDRC ruled the exclusion void, citing Section 21(4) of the MHCA. The decision, relying on Act's clear mandate, established a precedent for invalidating discriminatory exclusions.

(i) In *Shikha Nischal v. National Insurance Company Limited & Another* (2021, High Court of Delhi), the insurer rejected a ₹5,54,636 claim for treatment of schizoaffective disorder under an exclusion clause. The court ruled that the exclusion violated Section 21(4) of MHCA, ordering the insurer to pay and criticised IRDAI for lax oversight in approving discriminatory policies.
In another case, *R. Mukhopadhyay v. Coal India Limited*, (2023, Chhattisgarh High Court) psychiatric treatment reimbursement was denied under Coal India's Post-Retirement Medicare Scheme clause. Under court scrutiny, Coal India removed the exclusion, rendering the case moot. The court affirmed that MHCA is applicable to insurance-like schemes.
In National Insurance Co. Ltd. v. J&K State Consumer Commission & Galdan Wanchuk, (2025, Jammu & Kashmir High Court) hospitalisation expenses related to serious mental health disorders were declined under a policy exclusion. The court deemed the repudiation discriminatory, affirming parity under Section 21(4) of MHCA.

Judicial intervention to affirm parity in coverage is still ongoing. The case of Santosh Kumar Verma v. Bharat Coking Coal Ltd. & Others, (2025, High Court of Jharkhand) involved denial for reimbursement for his wife's psychiatric treatment on exclusionary clause of the Contributory Post-Retirement Medicare Scheme (CPRMS). The court ruled the exclusion unconstitutional and unenforceable post-2017.

Non-disclosure of pre-existing conditions

Insurers frequently deny legitimate mental health claims citing non-disclosure of pre-existing mental health conditions, even when diagnoses occur only post-policy inception, resulting in disputes over policy terms. Court rulings on these cases have been inconsistent, with outcomes varying in both directions.

Rajiv Jain v. National Insurance Co. Ltd.(2021, Delhi State Consumer Disputes Redressal Commission) involved a non-disclosure dispute. The petitioner, Rajiv Jain, tried to obtain reimbursement for mental health treatment, but the claim was rejected, citing non-disclosure of a pre-existing condition. The court ruled in favor of the insurer due to the principle of uberrima fides (utmost good faith), but noted the exclusion clause's presence was problematic post-MHCA as it violated section 21(4).

More recently, Indrajit Mitra v. Care Health Insurance Limited (2024, Consumer Disputes Redressal Commission in Bangalore) addressed post-policy diagnoses. Despite the insurer's non-disclosure allegations, evidence showed that Autism Spectrum Disorder (ASD) was diagnosed post-policy inception, while other conditions were already declared at the outset. The court ruled the denial violated Section 21(4) of MHCA and IRDAI guidelines, ordering a refund with compensation under the Consumer Protection Act, 2019.

Discriminatory policy restrictions

Some cases involve broader discriminatory practices, such as imposing restrictive sub-limits (caps to the amount of reimbursement) or outright denials based on associated conditions, undermining the MHCA's parity goals.

In Subhash Khandelwal v. Max Bupa Health Insurance Company Limited (2021, Delhi High Court), the mental illness coverage was capped at ₹50,000, despite the ₹35 lakh sum assured. The court ruled that the discriminatory cap violated Section 21(4) of MHCA, ordering equal coverage.

Saurabh Shukla v. Max Bupa Health Insurance Co. Ltd.,(2023, Delhi High Court) , addressed broader discrimination. The petitioner was denied insurance due to a physical disability, which implicitly included mental health vulnerabilities. The court condemned the rejection, citing IRDAI's 2020 circular and MHCA, which protect persons living with disabilities and mental illnesses. The ruling indirectly supported parity by emphasizing inclusion grounded in the MHCA, IRDAI guidelines, and constitutional rights to equality.

Courts have consistently ruled in favor of policyholders, invalidating discriminatory practices and enforcing MHCA's mandate. Yet, the reliance on judicial intervention exposes a significant gap between legal intent and practical reality. To achieve true parity, stronger enforcement, clearer policies, and greater awareness are essential.

Recommendations

The table below summarises the recurring concerns and gaps in insurance coverage with recommendations for regulation and enforcement

ISSUES	RECOMMENDATIONS
Denial of mental health clause due to outdated policy exclusions	IRDAI should conduct regular audits of policies to ensure compliance with MHCA and penalise non-compliant insurers
Lack of awareness among insurers and policyholders about MHCA parity mandate	IRDAI should mandate standardised and transparent policy wording to eliminate ambiguity and ensure mental illness coverage is clearly included. It should foster collaboration between mental health professionals, insurers, and legal experts to develop best practices for mental health insurance.
Misclassification of mental health conditions as pre-existing to deny claims	IRDAI should issue guidelines requiring insurers to verify pre-existing conditions with medical evidence before claim denials.
Costly and time-consuming litigation on denial of mental health claims in general	IRDAI should work on establishing a better grievance redressal mechanism for policyholders to report non-compliance, with swift penalties for violators.
Limited access to mental health services increasing reliance on private insurance	The government should integrate mental health services into public health schemes to complement private health coverage.

References

1. National Institute of Mental Health and Neurosciences, Ministry of Health and Family Welfare. National Mental Health Survey of India, 2015-16; . https://indianmhs.nimhans.ac.in/phase1/Docs/Report2.pdf
2. NSS. 75th round of National Sample Survey 2017-18. https://www.mospi.gov.in/sites/default/files/publication_reports/KI_Health_75th_Final.pdf
3. Economic Survey 2021. https://www.indiabudget.gov.in/budget2021-22/economicsurvey/doc/echapter_vol2.pdf