

The Code on Social Security, 2020

Section 40 - Provision of medical treatment by State Government or by Corporation

- (1) The State Government shall provide for Insured Persons and (where such benefit is extended to their families) their families in the State, reasonable medical, surgical and obstetric treatment: Provided that the State Government may, with the approval of the Corporation, arrange for medical treatment at clinics of medical practitioners on such scale and subject to such terms and conditions as maybe agreed upon.
- (2) Where the incidence of sickness benefit payment to Insured Persons in any State is found to exceed the all-India average, the amount of such excess shall be shared between the Corporation and the State Government in such proportion as may be fixed by agreement between them: Provided that the Corporation may in any case waive the recovery of the whole or any part of the share which is to be borne by the State Government.
- (3) The Corporation may enter into an agreement with a State Government in regard to the nature and scale of the medical treatment that should be provided to Insured Persons and (where such medical benefit is extended to the families) their families (including provision of buildings, equipment, medicines, and staff) and for the sharing of the cost thereof and of any excess in the incidence of sickness benefit to Insured Persons between the Corporation and the State Government.
- (4) In default of agreement between the Corporation and any State Government as aforesaid, the nature and extent of the medical treatment to be provided by the State Government and the proportion in which the cost thereof and of the excess in the incidence of sickness benefit shall be shared between the Corporation and that Government, shall be determined by an arbitrator who shall be appointed by the Central Government in consultation with the State Government.
- (5) The State Government may, in addition to the Corporation under this Code, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury: Provided that any reference to the State Government in this Code relating to this Chapter shall also include reference to the organisation as and when such organisation is established by the State Government.
- (6) The organisation referred to in sub-section (5) shall have such structure, discharge functions, exercise powers and undertake such activities as may be prescribed by the Central Government.
- (7) The Corporation may establish and maintain in a State such hospitals, dispensaries and other medical and surgical services as it may think fit for the benefit of Insured Persons and (where such medical benefit is extended to their families), their families.
- (8) The Corporation may enter into agreement with any local authority, private body or individual in regard to the provision of medical treatment and attendance for Insured Persons and (where such medical benefit is extended to their families) their families, in any area and sharing the cost thereof.
- (9) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees' State Insurance hospitals through third party participation for providing medical treatment and attendance to Insured Persons and (where such medical benefit has been extended to their families), to their families.
- (10) Notwithstanding anything contained in any other provision of this Chapter, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to Insured Persons and (where such medical benefit is extended to their families), to the families of such Insured Persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the Corporation.
- (11) In the event of the Corporation exercising its power under sub-section (10), the provisions relating to medical benefit under this Chapter shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.

(12) Notwithstanding anything contained in this Code, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com