

West Bengal Employees' State Insurance (Medical Benefit) Rules, 1974.

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**Orders and Notification by the Government of West Bengal the High Court, Government
Treasury, etc.**

GOVERNMENT OF WEST BENGAL LABOUR DEPARTMENT

NOTIFICATION

No. 883-1/SS/1R-1/73-22nd March, 1974 - In exercise of the powers conferred by clauses (d) to (h) of sub-section (1) of section 96 of the Employees State Insurance Act 1948 (Act 34 of 1948) and in super session of the West Bengal Employees State Insurance (Medical Benefit) Rules 1955, the Governor, after consultation with the Employees' State Insurance Corporation, is pleased hereby to make the following rules, the same having been previously published as required by sub-section (1) of section 96 of the said Act:-

Rules

PART - I General

1. **Short title extent and commencement-** (1) these rules shall be called the *West Bengal Employees' State Insurance (Medical Benefit) Rules 1974*.
- (2) They extend to the whole of West Bengal.
- (3) They shall come into operation in such areas of West Bengal and on such dates as the State Government may be notified in the Official Gazette.
2. **Definitions** - In these rules, unless there is anything repugnant in the subject of context,
 - (1) "Act" means the Employees' State Insurance Act 1948 (XXXIV) of Act 1948;
 - (2) "Administrative Medical Officer" means the principal Medical Officer appointed by the State Government to administer the Medical Benefit Scheme under the Employees' State Insurance Act, 1948 in West Bengal, subject to the administrative control of the Director, Employees' State Insurance (Medical Benefit) Scheme, and includes an Additional Administrative Medical Officer.
 - (3) "Corporations" means the Employees' State Insurance Corporation set up under the Act;
 - (4) "Director Employees", State Insurance (Medical Benefit) Scheme, West Bengal means the principal officer appointed by the State Government to administer the Medical Benefit Scheme under the Employees' State Insurance Act, 1948, in West Bengal;
 - (5) "Drugs" includes all medicines for internal or external use of human beings and all substances intended to be used

- for or in the treatment mitigation or prevention of diseases in human beings;
- (6) "Medical Inspector" means the Medical Officer appointed as such by the State Government;
- (7) "Medical Practitioner" means -
- (a) a person holding the qualification granted by an authority specified or notified under section 3 of the Indian Medical Degrees Act, 1916 (VII of 1916), or specified in the Schedules to the Indian Medical Council Act, 1956 (CII of 1956) or a person registered in the Medical Register of West Bengal meant for the registration of persons practicing allopathic system of medicine, but does not include a person registered under Article of the Status of the State Medical Faculty, West Bengal;
- (8) "Medical Referee" means Medical Officer appointed as such by the Corporation ;
- (9) "Prescribed" means prescribed under these Rules;
- (10) "Quarter" means any one of the periods from the 1st day of January to the 31st day of March , the 1st day of April in the 30th day of June , the 1st day of July to the 30th day of September and the 1st day of October to the 31st day of December;
- (11) "Regulations" mean the Employees' State Insurance (General) Regulation, 1950, section 97 of the Act;
- (12) "State Government" means the Government of the State of West Bengal;
- (13) "State Insurance Medical Formulary" means a list of prescriptions and injections laid down by the Corporations from time to time;
- (14) All other words and expressions used herein but not defined, shall have the same meaning as is designated to them in the Act, the rules made under section 95 of the Act as the case may be.

PART II

Provisions Relating to Medical Benefit - section A: Scale of Benefits

- 3. Scale of Medical Benefits.** The Medical Benefit provided under section Rules shall be according to the following scale:
- (1) General Medical Services, which shall include treatment as outpatients at the clinic of Insurance Medical Practitioner or the dispensary of an Insurance Medical Officer or other institutions and shall control of;
 - i) All treatment other than treatment involving the application of special skill or experience;
 - ii) Such preventive treatment as vaccination and inoculation;
 - iii) Ante-natal and post-natal treatment of insured women;
 - iv) Free provision of all drugs and dressings that may be considered necessary according to the provisions of rule 14 and rule 15;
 - v) Provision of certificates, free of cost, in respect of sickness, maternity, employment injury and death, required under the Employees' State Insurance (General) Regulations, 1950, or as State Insurance (Medical Benefit) Scheme, West Bengal and
 - vi) Domiciliary visits, where necessary.
 - 2 Specialist services for investigation and treatment as out-patients at such institutions, as may be established or arranged by the State Government. If, having regard to the condition of a patient, such services involving special skill and experience are recommended by an Insurance Medical Practitioner, an Insurance Medical Officer, or Superintendents of the institutions having arrangement for out-patient treatment of the insured persons and families of insured persons (where such benefit is extended to the families of insured persons).
 - 3 In-patient treatment in the general ward of a hospital, which is established or specified for the purpose by the State Government, if accommodation is available therein, and if such treatment is considered necessary by the Insurance Medical Practitioner or the Insurance Medical Officer and the treatment provided for the patient shall include free maintenance and such specialist and general treatment including treatment at confinement, as may be available at the hospital to which the insured person or a member of the families of Insured Person (where such benefit is extended to the families of insured persons) is admitted, as well as those special investigations which are considered necessary and for which facilities exist at the hospital or at an associated laboratory.
 - 4 Maternity medical services for insured women in such manner, as the State Government may specify from time to time.
 - 5 Facilities for the removal of Insured Persons to hospitals where necessary, by ambulance or otherwise free of charge.

Section B: General Medical Services

4. **Provision of general medical services by Insurance Medical Practitioners/Insurance Medical Officers**
 - (1) The State Government shall arrange to provide general medical services to insured persons through Insurance Medical Officers or at clinics of Insurance Medical Practitioner appointed under this rule.
 - (2) Such Insurance Medical Officer and Insurance Medical Practitioners shall be appointed for such areas and for such numbers of Insured Persons as may be prescribed by the State Government
 - (3) An Insurance Medical Practitioner shall be deemed to be an Insurance Medical Officer for the purpose of Employees' State Insurance (General) Regulations 1950.
 - (4) In places where no Insurance Medical Practitioner or Insurance Medical Officer is available, the State Government shall make such alternative arrangement for the medical care of the insurance person, as is considered suitable and adequate by the State Government.

5. **Appointment of Insurance Medical Practitioner:** - (1) The Director Employees State Insurance (Medical Benefit) Scheme, shall, with the approval of the State Government, appoint Insurance Medical Practitioner.
 - (2) Application by Medical Practitioner for appointment as Insurance Medical Practitioner shall be sent to Director, Employees State Insurance (MB) Scheme in West Bengal, in the form to be prescribed by the State Government.
 - (3) The Director, ESI (MB) Scheme, West Bengal, shall cost such enquiry in respect of the application as may be necessary, and before the seeking the approval of the State Government satisfy himself that the application fulfill, interalia, the following condition, viz.-
 - (a) that the clinic of the applicant is ordinarily within a radius of 3 kms. Of the residence of the insured persons;
 - (b) that the applicant ordinarily resides within a radius of 3 kms. of his clinic;
 - (c) that the applicant has made adequate arrangement in his clinic for dispensing drugs and medicines as per prescribed list;
 - (d) that there are reasonable accommodation where patient may wait under cover and separate accommodation where the patient can be seen and examine in privacy, such accommodation for waiting and examination together with dispensing space being not ordinarily less that 250 sqft.;
 - (e) that the applicant is physically fit and mentally alert;
 - (4) An appointment under these rules shall be subject to be Medical Practitioner agreeing in writing in abide by the provision of these rules and the terms and conditions of the services as laid down in part iv of these rules.

6. **The list of Insurance Medical Practitioners-** (1) The Director, ESI (MB) Scheme, W.B. shall prepare area-wise list, to be called the list of Insurance Medical Practitioners, containing interalia:-
 - (a) the names and qualification of Insurance Medical Practitioners;
 - (b) the private address and address of the clinic, dispensaries or other place, which the practitioner undertakes to attend for the purpose of treating insured persons; and
 - (c) Particulars of the days and hours during which he undertakes to be in attendance at such place for such treatment.(2) Copies of the list shall be available for inspection by any insured persons at the office of the Administrative Medical Officer concerned.
 - (3) Copies of the medical list shall be supplied to -
 - (a) the Medical Commissioner;
 - (b) the Regional office of the corporation.
 - (c) The Resident Dy. Medical Commissioner
 - (d) The Medical concerned; and
 - (e) To any employer trade union or Medical Association on demand.

7. **Appointment of Insurance Medical Officers-** (1) The State Government may, Subject to such condition as may be laid down by it, appoint Insurance Medical Officer from amongst suitable Medical Officers and other staff already in its service or persons possessing such medical and other qualifications, as may be laid down by the State Govt.
 - (2) The Insurance Medical Officer so appointed shall be provided with such accommodation, equipments,

stores, medicines and drugs, as may be necessary for rendering general medical service to insured persons under these rules.

8. **Choice of Insured Medical Practitioners or Insurance Medical Officer-** (1) an Insured person shall have the option to apply for acceptance for general medical service by delivering to the insurance Medical Practitioners or the Insurance Medical Officer of his choice a signed medical acceptance card in such form as the corporation made specified
- (2) The acceptance of insured persons shall be signified by the Insurance Medical Practitioner or the Insurance Medical Officer, by signing the medical acceptance card within two days of his presentation by the insured persons.
 - (3) The Insurance Medical Officer of the Insurance Medical Practitioner as the case may be shall send notice of acceptance together with the medical acceptance card to the Administrative Medical Officer within seven days from the date of acceptance.
 - (4) The Insurance Medical Practitioner/Insurance Medical Officer shall forthwith inform the applicant and the AMO of any case of refusal of acceptance and further act in accordance with the provision of rule 26 of the rules.
9. **Assignment of insured persons to Insurance Medical Practitioner or Insurance Medical Officer.** (1) The Administrative Medical Officer shall assign an insured person either to an Insurance Medical Practitioner or to an Insurance Medical Officer in the event of—
- (a) refusal by an Insurance Medical Practitioner or any IMO to accept the Insured person in accordance with rule 8;
 - (b) non-availability of the services of an IMP or and IMO on account of transfer, leave, suspension removal, withdrawal, death or any other reason
 - (2) In making any assignment under this rule, the AMO shall have regard to the distance between the residence of the person and the clinics of various IMP of the dispensaries of IMO, the number of insured persons on the existing panels, and such other circumstances as appear to him to be relevant.
10. **Temporary arrangements** for securing treatment of insured persons,-(1) Pending assignment under rule 9, the AMO may make temporary assignment of the insured persons on the panel of the IMP or the IMO concerned to some other IMP or to an IMO:-
- Provided that such arrangements shall cease to continue as soon as the insured person selects and Insurance Medical Practitioner or an IMO under rule 8 or assignment is made under rule 9.
- (2) For the purpose of securing treatment of insured persons in the circumstances stated in sub-rule (1), AMO may with the approval of the Director, ESI, W.B. appoint one or more IMP temporarily:
- Provided that an appointment under this sub-rule shall be for such period as the Director, ESI may think fit, but not exceeding, except in special circumstances, six months.
11. **Change of Insurance Medical Practitioner or Insurance Medical Officer,** - (1) An Insured person may, with prior permission of the AMO change his IMP or IMO, as the case may be,. If he changes his residence in a distant locality, or otherwise not more than once a year, provided that the State Govt. or the Director, ESI may after being satisfied that special circumstances exist permit a change at any time on application by the Insured Person.
- (2) The application for such change shall made by the Insured Person in writing the
 - (3) AMO, who shall intimate his decision thereon to the Insurance Medical Practitioner or the Insurance Medical Officer, concerned as well as to the insured person, within a month.
 - (3) On the death of or on the removal or withdrawal from the medical list of an Insurance Medical Practitioner, the AMO shall give to the person on the list of such practitioner notice of their right to apply to another Insurance Medical Practitioner or to an Insurance Medical Officer for acceptance.
12. **List of insured persons:-** (1) The AMO shall prepare and maintain an up-to-date list of insured persons, for whose treatment each Insurance Medical Practitioner or IMO is for the time being responsible, and shall from time to time furnish the Insurance Medical Practitioner or Insurance Medical Officer concerned with information in such form, as the State Govt. may determine with regard to persons included in or removed from the list.
- (2) Any deletion, otherwise than by reason of death, shall take effect from the date of which notice of deletion is sent by the AMO to the IMP or the IMO, as the case may be, or from such other date, not being earlier than the date, as may be specified in the notice.
 - (3) Any decision by reason of death shall take effect from the date on which that person died.

- (4) Inclusion or removal of an insured person from the panel of an Insurance Medical Practitioner or Insurance Medical Officer shall be subject to such conditions as maybe laid down by the State Govt. in consultation with the Corporation.

13. **Procedure for obtaining general medical services**,--An insured person who

Wishes to claim general medical services shall attend with his identity card issued under regulation 17 of the Employees State Insurance (General)

Regulations, 1950, the clinic of the Insurance Medical Practitioner or at the dispensary of the Insurance Medical Officer in where panel his name is included or at any other institutions to which he is assigned:

Provided that in case of an emergency an insured person may claim medical benefit under these rules from any other insurance medical practitioner or insurance medical officer or any dispensary or institution providing treatment under these rules:

Provided further that where an insured person is unable to attend a clinic or a dispensary or other institution, the Insurance Medical Practitioner or the Insurance Medical Officer, as the case may be, on intimation being received, visit him at his residence. If he is satisfied that the insured person can not be expected to come to the clinic or the institution.

Provided further that if the insured person or his agent fails to produce his opr the insured person's identity card, as the case may be as proof of identity of the person claiming the benefit may, subject to the terms of service in Part IV of these rules, be refused to him.

14. **Supply of drugs and dressings.** (1) The State Government shall enable insured persons receiving general m3medical services to obtain, from clinics of the Insurance Medical Practitioners or the dispensary of the Insurance Medical Officer or any other dispensary set up by the State Govt. or from any other person or institution, with whom arrangement may be made, such proper and sufficient drugs, medicines and dressings free of charge, as may be required for their treatment.

- (2) Insurance Medical Practitioners and Insurance Medical Officer prescribe such drugs as may be reasonably required for the proper treatment of the insured persons, as for as possible, in accordance with the State Insurance Medical Dormulary laid down by the Corporation.

Section C: Special Medical Services

15. (1) The State Govt. shall arrange to provide specialized medical treatment to insured persons and families of insured persons (where such benefit is extended to the families of insured persons)under circumstances, as enumerated in sub-rule (2) of rule 3 of the rules, and may for the purpose establish such Specialists' Centres or institutions, as it may consider necessary, or make, on such terms, as may be reasonable and agreed upon between the parties, arrangements with other institutions under its control or under the control of a local body, private individual or institution.

- (2) The State Government shall make such arrangement as may be necessary for supply of medicines, drugs and dressings, as may be prescribed by the Specialists, subject to the general or special directions of the State Government or the Corporation.

Section D: Hospital Services

16. **Provision of hospital services...** The State Government may also establish separate hospitals or other medical institutions for the examination and treatment of insured persons and families of insured persons (where such benefit is extended to the families of insured persons) or may reserve, when possible, on such scale and terms as may be agreed upon between the corporation and the State Government from time to time, separate beds for the exclusive use of the insured persons and Families or insured persons) in the hospitals or other medical institutions under its control or under the control of a local body, private institution or individual.

Section E: Other arrangements

17. **Medical services provided by employers.** Where an employer is providing medical services, not lower in standard than that provided in insured persons by the State Government arrangement may be made for the contribution of such services for providing medical benefit to insured persons under such terms and conditions as may be agreed upon between the state government, the Corporation and the employer.

PART-III

18. **Medical Service committee-** (1) A Medical Service Committee shall be set up for such area or areas as may be considered appropriate by the State Government, and shall consist of the following members:-

- a) a Chairman nominated by the State Government;
 - b) one or two employees' representatives, as may be considered appropriate by the State Government, to be nominated by it in consultation with such organisations of employees, as may be recognised for the purpose by the State Government;
 - c) an equal number of representatives of Insurance Medical Practitioners, to be nominated by the State Government in consultation with the local Medical Committee, if any or such organisations of Insurance Medical Practitioners, as may be recognised for the purpose by the State Government;
 - d) a medical referee of the Corporation nominated by it; and
 - e) a nominee of the State Government.
- 2) If the committee as constituted under sub-rule (1) does not contain a woman, the State Government may nominate a woman as an additional member.
- 3) The State Government shall appoint one of its whole time officers to act as Member Secretary to the Medical Service Committee.
- 4) Appointment of the members of the Medical Service Committee shall be notified in the Official Gazette.
- 5) i) The members of the Medical Service Committee, referred to in sub-rule (1)(a), sub rule (1)(d), sub-rule (1)(e) and sub-rule (3) shall hold office during the pleasure of the State Government and the Corporation, as the case may be.
- ii) The term of the office of the members of the Medical Service Committee, referred to in sub-rule (1)(b) and sub-rule (1)(c), shall be three years, commencing from the date on which their appointment is notified in the Official Gazette.
Provided that the members of the committee shall notwithstanding the expiry of the said period, continue to hold office until appointment of their successors is so notified,
- iii) A member of the Medical Service Committee may resign his office by giving notice in writing to State Government and the seat shall fall vacant on acceptance of the resignation,
- iv) A member of the MSC shall cease to be a member of the Committee-
- a) if he fails to attend three consecutive meetings thereof, provided that his membership may be restored by the State Government on its being satisfied as to the unavoidable nature of the circumstances which led to his non attendance; or
 - b) if, in the opinion of the State Government he ceases to represent the interest of the employees or the Insurance Medical Practitioners, as the case may be; or
 - c) on his death; or
 - d) on his resignation; or
 - e) If, in the opinion of the State Government, in consultation with Regional Board, he is unable to discharge his responsibility as a member of the Committee for any reason whatsoever.
- v) The vacancy occurring under the provisions of this sub-rule or for any other reason shall be filled up, in the manner prescribed under sub-rule (1).
- 5) Non-official members of the Committee shall receive such fees or allowances, as the State Government may specify.

- 19) **Powers and functions of the Medical Service committee:-** (1) Any question arising between an Insurance Medical Practitioner and a person, who is or has been, or who claims to be or to have been entitled to obtain treatment from that practitioner or between the representative of any such person, if deceased and the Insurance Medical Practitioner in respect of the treatment rendered by the Insurance Medical Practitioner or any alleged failure to render treatment or other breach by the Insurance Medical Practitioner of his duties under the terms of

service in respect of the conduct of the person, while receiving treatment, shall be investigated by the Medical Service Committee.

Explanations: For the purpose of this sub-rule the representative of a deceased person shall include a member of the deceased person's family or any person, who satisfies the MSC that he is acting on behalf of the deceased person's family.

- (2) Any person desiring to raise any question under sub-rule (1) shall, within six weeks after the event, which gave rise to the question, give written notice to the Secretary of the Committee stating the substance of the matter, which he desires to have investigated, provided that notwithstanding the failure to give notice within the said period, the Committee may investigate the matter, if it is satisfied that such failure was occasioned by illness or other reasonable cause.
- (3) The Director, ESI may, after such enquiry as may be necessary, and if the local Medical Committee so desires shall refer for investigation by the MSC any matter relating to the administration of medical benefit or to the discharge by any Insurance Medical Practitioner of his duties under the terms of service, whether such matter has been raised by or on behalf of the Insured Person under sub-rule (2) or not, and Medical Service Committee shall investigate it accordingly.

Provided that no question, which involves an allegation against an Insured Medical Practitioner, of a breach of term of service shall, without the approval of the State Government, be referred for investigation under this paragraph, except within a period of three months after the occurrence of event, on which such allegation is based.

- 4) Where it appears to the Director, ESI (MB) Scheme, W.B., after due investigation, that there is a prima-facie case for holding that -
 - (a)(i) An Insurance Medical Practitioner is not dispensing to the Insured Person on his list such amounts of drugs and dressings as might reasonably be expected to be necessary for the adequate treatment of those persons; or
 - (a)(ii) Reason of the character and the quality of the drugs prescribed by the Insurance medical Practitioner, the charge imposed upon the funds available for the provision of medical benefits is in excess of what was reasonably necessary for the adequate treatment of those persons; or
 - f) An Insurance Medical Practitioner has failed to carry out his obligations under the terms of service prescribed under these rules, so far as the obligations involved the recording of clinical data regarding his patients, the Director, ESI (MB) Scheme, W.B. may refer the matter to the MSC for investigation and the MSC shall investigate such matters.
- 5) Where it appears to the Corporation, after due investigation, that there is a prima-facie case for holding that an Insured Medical Practitioner has failed to exercise reasonable care in the issue of medical certificate to Insured Person on his panel or to persons for whose treatment he is responsible under these rules, the Corporation may refer the matter to the MSC for investigation.

20) Procedure for investigation:- 1) The MSC shall furnish to the Insurance Medical Practitioner or the insured person concerned with a statement containing the substance of the allegations and shall afford him reasonable opportunity of submitting to it a written statement in his defence and also of appearing before and being heard by it.

- 2) A written statement, referred to in sub-rule (1), shall be submitted in triplicate and a copy of such written statement shall be forwarded to the Director, ESI (MB) Scheme, W.B. or the Corporation or the person raising the issue, as the case may be, by the MSC for their observations and the Director, ESI (MB) Scheme, W.B or the Corporation, as the case may be, or their representatives and the person raising the issue shall be entitled, in case of hearing to attend and to be heard by the MSC.
- 3) The MSC may, if it thinks fit, permit any person concerned investigation to be advised in the presentation of his case by some other persons;

Provided that no person shall be entitled to appear in the capacity of council, solicitor or other paid advocate.

- 4) The proceedings at the hearing before the MSC shall be private and no person shall be admitted to those proceedings, except -
 - a) the persons concerned in the investigation and the persons, if any, permitted to appear for the purpose of assisting them;
 - b) a person or persons to represent the insured person, who shall be either an official of his trade union of the employer or his representative;
 - c) an officer of the Corporation;
 - d) an officer of the Dte. Of ESI (MB) Scheme, W.B.;
 - e) the Secretary or other officer of the local medical committee ;
 - f) such officers under the State Government, as may be appointed for the purpose ; and
 - g) persons, whose attendance is required for the purpose of giving evidence, and who shall, unless the committee otherwise direct, be excluded from the hearing , except when they are actually giving evidence.
 - 5) The MSC shall give due notice of hearing in writing to the persons concerned in the investigation.
 - 6) Any three member of the MSC shall make quorum in a meeting.
 - 7) The Medical Service Committee may dispense with a hearing, if it is satisfied that the complain is frivolous or vexatious or that the complain does not disclose any prima-facie ground for proceedings, and may delegate such power to the Chairman.
 - 8) The MSC after duly considering all the relevant evidence, oral and documentary, shall draw a report containing, inter alia,
 - a) a statement of allegation and of the explanation of the Insurance Medical Practitioner of the insured person if any;
 - b) an assessment of evidence; and
 - c) findings; and shall forward it to the Director ESI (MB) Scheme together with a recommendation as to the action if any, which should be taken. A copy of such report shall also be forwarded to the State Government.
- 21) **penalties,** - The following penalties may for good and sufficient reasons, be imposed upon an Insured Medical Practitioner under the rule, as herein after provided:-
- 1) censures;
 - 2) reduction of the number of insured person on the panel of an Insurance Medical Practitioner;
 - 3) recovery from the remuneration of an Insurance Medical Practitioner or otherwise of any pecuniary law caused to government or an Insured Person or any person acting on his behalf or on behalf of his family by reason of negligence or failure on the part of the Insurance Medical Practitioner to discharge his duties in accordance with the term of his service;
 - 4) withholding of remuneration in part or in whole;
 - 5) Removal from the medical list.

Explanation: The term “negligence” occurring in sub rule (3) of these rules shall include failure to exercise reasonable skill and care in the treatment of a patient, failure to visit or treat a patient when necessary, failure to supply necessary medicine or appliance for the use of a patient, failure to discharge the obligation imposed on Insurance Medical Practitioner to advise the patient as to the steps to be taken to obtain necessary treatment, if the condition of the patient is such as to required treatment, which is not within the scope of the Insurance Medical Practitioners’ obligations under the terms of service or failure to exercise reasonable care in the issue of medical certificate to the insured person on his panel or to person for whose treatment he is responsible under these rules .

- 22) **Action of the report of the MSC** — (i) After considering the report of the MSC refer to in sub rule (8) of rule 2D, the Director ESI (MB) Scheme may impose one or more of the penalties specified in rule 21;

Provided that the penalties specified in sub rule (4) and sub rule (5) of the said rule shall not be imposed without the approval of State Govt.;

Provided further that the State Government before giving such approval shall afford to the Insurance Medical Practitioner concerned, a reasonable opportunity of making a representation to it on the quantum of punishment.

Provided further that any expenses recovered under these rules, in case of expenses incurred by the insured person or by any person acting on his behalf or on behalf of the family of a deceased insured persons be repaid to the insured persons or other persons, by whom the expenses have been incurred

- ii) A report of the MSC relating to the conduct of an insured person shall be forwarded by the Director, ESI (MB) Scheme, with his comments to the Regional Director, ESI Corporation, under regulation 99 of the ESI (General) Regulation 1950.

23) **Suspension:- (I)** An Insurance Medical Practitioner may be placed under suspension-

- a) by the Director where an enquiry or investigation into any matter referred to in rule 19 if contemplated or is pending;
- b) by the State Govt. where, in the opinion of such government, the Insurance Medical Practitioner has engaged himself in activity prejudicial to the interest of the ESI (MB) Scheme, W.B, or to the security of the State.
- 6) An Insurance Medical Practitioner shall not be entitled to any remuneration or allowance for any period of suspension.

PART IV

Terms & condition of service for Insurance Medical Practitioner:

24) **Age of entry and termination-** the age of entry into the service of an IMP shall not ordinarily exceed 45 years and his service shall terminate on the date on which an IMP attends the age of 60 years;

Provided that an IMP may be re appointed by government from year to year basis, but in no circumstances he shall be re appointed after his attainment of 65 years of age.

25) **Persons for whose treatment an IMP is responsible-**

- 1) The persons for whose treatment an IMP is responsible are-
 - a) All insured persons, whom he has accepted or agreed to accept for inclusion in his panel and who have not been notified to him by the AMO as having ceased to be on his panel.
 - b) all insured persons, who have been assigned to him under these rules and who have not been notified to him by the AMO as having ceased to be on his list;
 - c) all insured persons, who need treatment in case of accident or other emergency; and
 - d) all insured persons ,for whom he may be required under the provisions of these rules to provide medical treatment, pending their acceptance by or assignment to an IMP or IMO .

Explanation: (1) The term, " insured person" occurring in this sub rule shall include family members of the insured persons, in cases in which the medical benefit have been extended to the family members.

(2) An IMP who is appointed under sub-rule (2) of rule 10 of the rules, shall during the period of his appointment be responsible for the treatment of such insured persons, as may be assigned to him by the AMO.

(3) Notwithstanding anything contained in these rules, an IMP shall not be responsible under these rules for the treatment in hospital of a person admitted thereto, unless the IMP is a member of the staff of that Hospital.

26. **Duty of an IMP on refusing to accept an insured person.** -It shall be the duty of an IMP refusing to accept an insured person, who applies for accepting. -

- (a) to give the applicant such treatment, if any, as may be required by him till his acceptance by or assignment to another IMP or IMO
- (b) to inform forthwith the applicant in writing of the response for such refusal, the name and address of any neighboring IMP or IMO to whom application for acceptance may be made and the address of the AMO for the purpose of enabling the applicant, if necessary, to secure assignment to an IMP or an IMO.

27. **Right of an IMP to have a patient removed from his list.** An IMP may have the name of any insured person removed from his panel by giving a notice at any time to the AMO stating the reasons for such a request and the removal will become operative at the expiration of thirty days from the receipt of such notice by the AMO or upon the acceptance of the insured person by another IMP or IMO or his assignment to another IMP or IMO whichever is earlier provided that a notice given or expiring during a spell of sickness or temporary disablement of an insured person shall take effect only thirty days after the date which the insured person is fit to resume work

28. **Evidence of title of insured persons to obtain treatment.**-(1) If an IMP has reasonable doubts about the identity of an insured person or any member of his family, claiming to be on his panel and applying for treatment, he is entitled to require such person to produce his identity card or other evidence in support of his claim.
- (2) If such person fails to produce his identity card or other evidence immediately, the IMP shall, nonetheless, give the person any treatment necessary at that time (including the supply of any drugs, dressing or appliances, which he would be required to supply to a person on his panel) and ask him to produce the identity card or any other evidence from the employer that he is an insured person or a member of the family or an insured person when he visits next and if the person fails to do so, the IMP shall still provide treatment, but he may demand and accept from the applicant a reasonable fee for any treatment given including any drugs or dressings supplied, provided that he grants at the applicant a receipt and intimates the particulars of the case to the AMO.
29. **Range of services to be rendered by an IMP.** (1) An IMP shall render to his patients all proper and necessary treatment and such treatment included the performance of or the administration of anaesthetic or assistance at an operation, performed by and of the kind usually performed by general medical practitioner, if administration of the anaesthetic or the rendering of such other assistance does not involve the application of special skill or experience of a degree of kind, which general practitioners as a class cannot reasonably be expected to possess.
- (2) An IMP shall arrange for the confinement of an insured woman or the wife of an insured person or his panel either by himself or by a registered midwife or trained dai, for which such separate fee, as the State Government may specify, will be paid for the persons, who conducted the confinement.
- (3) In the case of emergency including abnormal or difficult maternity cases, the IMP shall render whatever services are required including domiciliary visit, having regard to the circumstances, in the best interest of the insured person, or any member of his family.
- (4) In determining whether a particular service is service involving the application or special skill and experience regard is to be had to the question whether services of the kind are or are not usually undertaken by general practitioners practicing in the areas, in which the question arose.
- (5) An IMP shall arrange for ante-natal and post-natal care to the expectant and nursing mothers on his panel.
- (6) An IMP shall provide to the insured persons on his panel and the members of his family -
- (a) Vaccinations and inoculations and such other forms of preventive treatment and advice, as may be necessary in the best interest of such insured persons.
- (b) Family planning assistance and advice.
- (7) If the condition of a patient is such as to require his hospitalisation or treatment or examination involving the application of special skill or experience of a degree or kind, which general practitioners as a class can not reasonably be expected to possess, the IMP shall inform the patient of the fact and refer the case to the nearest Specialists' Centre or hospital as the case may be, and shall continue such treatment, examination etc. are undertaken at the Specialist Centre or his admission in the hospital as an indoor patient, provided that while referring a case to a Specialist Centre or a hospital, an IMP shall, if the condition of the patient so requires, arrange for his transport by an ambulance or otherwise and any expenses, which the IMP may incur for such transport, shall be reimbursed to him by the Director or any other officer authorised by the State Government.
- (8) Domiciliary visit: An IMP shall visit and treat an insured person on his panel or any member of his family at the residence of the latter, if the condition of the patient is such that he can not reasonably be expected to come to his clinic for treatment.
- (9) Medical certificate: The IMP shall issue to his patients, free of charge, any certificate reasonably required in respect of sickness, maternity, employment injury and death under the regulations or as may be required from time to time by the Corporation or the Director or the AMO, Employees' State Insurance (Medical Benefit) Scheme, W.B.
- (10) Duty supply drugs and dressings: An IMP shall supply to a patient, free of charge all drugs and dressings, as may be required for proper treatment of the insured persons and their families, in accordance with ESIC Pharmacopocia, and shall maintain sufficient stock of such drugs and dressings.
- (30) **(1) Clinic hours:** The clinic hours of an IMP shall ordinarily be from 8 am to 11 am and from 6 PM to 9 PM and the clinic hours may, however, be fixed by the IMP only to suit local convenience of the patients and with prior approval of the AMO and notice of the clinic hours fixed shall be given in such manner as the AMO from time to time may direct and shall be indicated on a notice board displayed prominently at the clinic.

- (2) **Clinic accommodation:-** An IMP shall provide proper and sufficient accommodation for clinic including examination, waiting room and dispensing for the patients, which shall not ordinarily be less than 250 sft. And there should be a separate waiting room for ladies and a notice, as may be prescribed by the AMO with approval of the Director, ESI (MB) Scheme, from time to time showing the list of services, which the insured persons and their families are entitled to receive shall be displayed at the clinic.
- (3) **Records:-** An IMP shall -
- (a) keep such records, as the State Government or the Director ESI West Bengal, may from time to time specify in consultations with the Corporation;
 - (b) Maintain a medical record in respect of each insured person on his panel in the form laid down and supplied by the Corporation in this behalf from time to time.
 - (c) Furnish returns in such forms, as may be laid down by the Corporation or the State Government or the Director ESI (MB) Scheme, W.B.
 - (d) Upon knowledge of the death of an insured person forward the medical record to the AMO within seven days.

31. Submission of clinical information and meeting with the AMO or Medical Referee. - An I.M.P. shall-

- (a) at all reasonable hours admit any officer of the Corporation duly authorised by the Corporation or any officer of the State Govt. or any other person duly authorised by the State Government, or by the Medical Service Committee set up under these rules to any clinic or waiting rooms for the purpose of any inspection, inquiry, or investigation and shall render all facilities to such person;
- (b) furnish in writing to the Medical Referee or AMO or any officer authorised by him within such reasonable period, as the latter may specify, any clinic information, which he may require with regard to any insured person, to whom the IMP has issued or declined to issue a medical certificate;
- (c) meet the Medical Referee or AMO or any officer authorised by him for the purpose of examining in consultation with him any patient, in respect of whom the IMP has sought the advice of the Medical Referee or AMO or any officer authorised by him;
- (d) afford to the Medical Referee or AMO or any officer authorised by him access at all reasonable time to the IMP 's clinic or to other place, where the records required by these rules are kept, for the purpose of the inspection of such records and furnish to the Medical Referee or AMO or any officer authorised by him such records or necessary information with regard to any entry therein, as he may request; and
- (e) answer any inquiries of the Medical Referee or AMO or any officer authorised by him with regard to any prescription or certificate issued by the IMP or to any statement made in any report furnish by him under these rules.

32. Conditions for practice and employment - (1) An IMP shall not carry on practice elsewhere than at his place of residence or at the clinic stated in his application.

- (2) The distance of the residence of an IMP shall not ordinarily be more than three kilometers from his clinic, stated in his application:

Provided that an IMP may be allowed to change his clinic and residence within the same area with prior approval of the Director, ESI (MB) Scheme, W.B., or any other officer authorised by the State Govt.

- (3) An IMP shall not accept any full-time employment elsewhere and he may, however, with prior approval of the Director ESI (MB) Scheme, W.B. accept part-time employment provided that the total duration of such employment does not exceed four hours on any single day.

Provided further that the hours of duty in such employment do not interfere with the prescribed clinic hours as an IMP and place of such part-time employment is not beyond two kilometers from his clinic.

33. Acceptance of fees, etc. - An IMP shall not demand or accept any fee or other remuneration or any reward or any service in respect of any medical treatment, whether under these rules or not, rendered to insured persons, except as provided in sub-rule (2) if rule 28.

34. Revision condition for practice and employment. - (1) The State Govt. may, with the consent of the Corporation, after the conditions of service from such date, as may be approved by the Corporation, by giving

notice in writing of the proposed alteration to each IMP.

- (2) Except in the case of an alteration, which results from the coming into operation of any Act of Parliament or Assembly, the State Government shall before making an alteration, consult the organisation or organisations, which in its opinion is or are representative of the IMP and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

35. **Suspension or withdrawal of the system.** - The state Government will be at liberty to suspend, in consultation with the Corporation, the system of providing medical treatment to insured persons through IMP in part or as a whole, if it is found that the system does not work properly or efficiently and shall give three months' notice to each IMP of the date from which the suspension is to take effect.

36. **Termination of service.** - (1) The State Government may terminate the service of any IMP without assigning any reason, after giving him notice of not less than three months.

Provided that the State Government shall afford the IMP concerned a reasonable opportunity of making representation to it.

- (2) An IMP is entitled at any time to give notice to the Director, ESI (MB) Scheme, W.B. that he desires to cease to be an IMP and his name shall be deleted from the medical list on the expiry of three month from the date of such notice or of such shorter period as the Director, ESI (MB) Scheme may agree.

Provided that during pendency of any disciplinary proceedings under the provisions of these rules against IMP, he may be required with the approval of the State Govt. by the Director, ESI (MB) Scheme, to continue to render service till the disposal of such proceedings.

37. **Casual Absence.** - (1) An IMP shall make all necessary arrangement for securing the treatment of his patients, when for any period not exceeding 30 days and for any cause, e.g., temporary absence from home or other reasonable cause, he is unable to give treatment to his patients personally and shall inform the AMO and the Medical Referee and the local office of the corporation of arrangement so made.

- (2) An IMP shall not absence himself from his practice for more than one week on any one occasion without first informing the AMO of his proposed absence and of the arrangement for the treatment of his patients during such absence, provided that the total period of absence under the sub-rule shall not exceed thirty days in one calendar year.

38. **Leave of an IMP** - (1) An IMP may, on sufficient ground be allowed to proceed on leave beyond thirty days with prior approval of Director, ESI (MB) Scheme, W.B.

- (2) When an IMP has proceeded on leave under sub-rule (1) the insured person register with his panel shall be assigned to some other IMP under these rules and no remuneration shall be payable to the IMP proceeding on leave for the period of such leave

39. **Continued absence or disability of an IMP.** - Where the Director, ESI (MB) Scheme, West Bengal is satisfied that owing to the continued absence or bodily or mental disability of an IMP his obligations under the terms of the service are not being adequately carried out, he may, with the consent of the State Govt., give notice to the persons on his list that the IMP is , for the time being, in his opinion not in a position to carry out his obligations under the terms of service.

40. **Remuneration of IMP.** - (1) The IMPs shall be paid remuneration to be called capitation fee at a rate to be fixed by the State Govt. with the approval of the corporation and payment shall be made according to the number of insured persons on his list at the end of the quarter, to which it relates, provided that no IMP shall ordinarily have more that 1000 persons on his list at any time.

- (2) The payment shall be made within one month at the end of the quarter, to which it relates.
- (3) The capitation fee shall be deemed to include remuneration for -

- (i) Such medical treatment and attendance as the IMP is required to provide ;
- (ii) Maintenance of such surgical and diagnostic instrument, as may be laid down for the purpose;
- (iii) Supply of emergency medicines injection and dressings;
- (iv) Use of doctor's clinic, telephone and staff;

- (v) Payment in respect of conveyance for domiciliary visits;
- (vi) Payment in respect of supply of drugs and dressings, and maintenance of such supply of proper and sufficient medicines and appliances, as may be specified; and
- (vii) Such other charges, which are considered essential and imperative for proper treatment of the insured persons.

PART V

Repeal

- (1) The West Bengal Employees' State Insurance (Medical Benefit) Rules, 1955, are hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said rule shall be deemed to have been done or taken under these rules.

By order of the Governor,
J.V.R. PRASADA RAO,
Dy. Secretary to the Govt. of W.B.