

Comparative policy content analysis of national health insurance laws and their implications for universal health coverage in Nigeria

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Abstract: -

Background

Nigeria's National Health Insurance Authority Act was signed into law on May 19th 2022 as a more viable option for achieving universal health coverage, over the former Act 42 of 2004 that established the National Health Insurance Scheme. This review compares the new Act with the former one with the aim to highlight any improvements in the new Act regarding the three key success features of health financing mechanisms, (i) sustainable sources of funding; (ii) equity in contribution and access to care; and (iii) strategic health purchasing.

Methods

The study is a document review and a health policy analysis comparing the National Health Insurance Scheme Act of 2004 and the National Health Insurance Authority Act of 2022. The different sections of the Acts and their implication for achieving UHC in Nigeria were analyzed and presented in themes and subthemes. The themes and subthemes were adapted from national health financing policy and strategy, they represent the key success features of health financing mechanisms.

Results

The findings showed that the new health insurance law in Nigeria is more focused in an equitable manner for total population coverage. While section 16 of the National Health Insurance Act Cap 42 of 2004 did not make contributions by employers and employees compulsory, section 14 of the new National Health Insurance Authority Act makes health insurance contribution mandatory to all residents in Nigeria. The 2022 Act also created the Vulnerable Group Fund and identified funding sources for the coverage of the vulnerable population.

Conclusion

The National Health Insurance Authority Act contains several success features that could contribute to the achievement of UHC in Nigeria. Stakeholders need to key in to ensure the successful implementation of the Act.

Keywords: NHIA, Universal Health Coverage, Health financing, Nigeria, Health law.

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Introduction

Health laws are critical for the attainment of any nation's health systems objective. This means for a nation to have a realistic output on its set health systems objective, the law guiding the implementation must be focused and apt to drive the objectives or reforms. Health laws are usually product of several resolutions of the parliament and assented to by the president which will guide the public health space of a nation. Public health law examines the authority of the government at various jurisdictional levels to improve public health, the health of the general population within societal limits and norms¹. Working with public health laws as against public health policies is better for implementers since it is justiciable thus the benefit of public health laws cannot be overemphasized.

The journey from a bill of the parliament to an Act of the National Assembly in Nigeria is guided by extant rules and inputs from relevant stakeholders during its public hearings. The bill could be a private or public one and commences from hearings at the flow of the lower house to the senate of the Federal Republic of Nigeria before accented to by the president. There are several public health laws in Nigeria but the National Health Insurance Authority Act of 2022 appears to have appealed to various stakeholders because of the need for a sustainable health financing system that can drive Universal Health Coverage (UHC).

Nigeria's Universal Health Coverage (UHC) agenda is to be achieved through the sustained implementation of its National Strategic Health Development Plan II. The plan which recognizes that the National Health Act 2014 in general and the Basic Health Care Provision Fund in particular present an opportunity for Nigeria to accelerate progress towards UHC at the backdrop of increase political and financial commitment. The momentum to expand access to National Health Insurance Scheme and State Social Health Insurance Schemes is a welcome development in the country's journey toward UHC. The goal of the 15th priority area of the plan is to ensure all Nigerians have access to health services without any financial barriers or impediments at the point of accessing care². The National Health Financing Policy and Strategy document which a health financing policy document that guides both the demand and supply side of health financing indicated that health sector in Nigeria is bedeviled with very limited financial access and risk protection from health expenditures for the majority of the population³. Out of pocket expenditure on health is high at about 70% with almost half the population living below a dollar a day, high expenditure on health needs increases the vulnerability of the poor to slip further into poverty³. The plan identified several reform strategies aimed at improving access to healthcare which includes, 1, Mandatory health insurance or contributory schemes shall be established at the federal and states levels to expand the fiscal space for health, to ensure viability and sustainability of health insurance schemes, and to foster cross subsidization and risk distribution. 2, Governments and their partners shall increase population coverage on health insurance or contributory schemes to at least 30% in the next 5 years. 3, Governments shall increase the healthcare coverage to the informal sector and ensure contributions from all who can pay using innovative mechanisms. 4, Private Health Insurance shall continue to be available and purchased based on individual choice to

supplement the mandatory social health insurance or contributory schemes 5, Government and partners shall engage with labour and other stakeholders to ensure that all government and non-government workers pay their employee contributions to the Formal Sector Social Health Insurance Programme of the National Health Insurance Scheme and similar social health insurance schemes or contributory schemes at the sub-national levels. 6, Government at all levels shall create health safety nets or equity funds, subsidies, direct fiscal transfers, pay their insurance contributions etc, for the poor and other vulnerable groups, (including women, children, elderly, and disabled) with funding from local and international organizations; Local The National Health Insurance Authority (NHIA) Act 2022 was introduced as a replacement of the National Health Insurance Scheme (NHIS) Act 2004. The establishment of the NHIA Act was a rigorous process that involved series of executive and legislative reviews and approvals, before the assent by the President in May 19, 2022. The NHIA Act whose aim is to seamlessly improve the implementation of health insurance policy in Nigeria and attainment of UHC within the shortest possible time has been heralded with great expectations from stakeholders based on low coverage status of the erstwhile health insurance law.

This study aims to provide evidence in a comparative manner on how these two laws are structure towards attainment of Universal Health Coverage in Nigeria. There is also no available resource in the body of knowledge on these two critical laws for the demand side health financing in Nigeria.

The objective of this study is to critically compare the two health insurance laws as a tool in the implementation of health insurance in Nigeria, identify critical success factors if any in the new law that will improve total population coverage and finally examine policy implications of these factors to Universal Health Coverage agenda in Nigeria.

Methods

Study design

This was a policy content analysis of previous and current health insurance laws in Nigeria, the NHIS Act 2004 and NHIA Act 2022, respectively.

Document search

The laws and other relevant government documents were retrieved from National Health Insurance Authority, Federal Ministry of Health and other websites. Other reports, manuscripts, policy briefs that could provide valid inputs on the laws, including the operationalization, achievements, implementation challenges, and implication for achieving UHC, were also retrieved from electronic databases such as WHO and other organizational websites and desk offices. These documents included..... The electronic search for documents was performed in English and only documents that were published after the establishment of the 2004 NHIS Act were included in the review.

Data extraction and analysis

The document review was performed by six reviewers. A repository of all documents was generated, and reviewers were assigned documents to read and extract data. Each document was

read by one reviewer, and relevant data were extracted into a template. The template was structured into themes and subthemes

that capture key success features of health financing mechanisms (table 1).

Table 1: Themes and subthemes for data extraction and analysis

Themes	Subthemes
1) Sustainable financial risk protection	a. Mandatory contribution b. Financial sustainability
2) Equity in contribution and access to healthcare	a. Equity in contributions for health insurance b. Equity in access to healthcare services
3) Strategic purchasing of healthcare services	a. What health services to purchase? b. Where health services can be purchased? c. How health services will be purchased? d. Use of Third Party Administrator

The data extracted by each reviewer were synthesized across documents for each theme and subtheme, and the findings were summarized in tabular formats for each law. The UHC implications of the contents of the new policy with respect to the themes were summarized as narratives.

Results

The results of the content of the laws with respect to the key success features are presented in tables 2 to 4.

Table 2 shows the findings on the features of the two laws for ensuring sustainable financial risk protection for the population that is covered. Whereas the NHIA Act 2022 makes contributions mandatory for all citizens and legal residents, the NHIS Act 2004 is optional. The NHIA Act also makes provisions for financial sustainability through the Basic Health Care Provision Fund (BHC PF), the subnational (State-led) contributory schemes, and Vulnerable Groups Fund (VGF), unlike the NHIS Act.

Table 2: Features of the NHIA Act 2022 and NHIS Act 2004 for ensuring sustainable financial risk protection of the covered population.

Features	NHIA Act 2022	NHIS Act 2004
a) Mandatory contribution	- Health insurance contribution is mandatory for all Nigerians and legal residents. - Contribution is mandatory for all employers with up to 5 employees and beyond	- Health insurance contribution is not mandatory for all Nigerians and legal residents. - Contribution is for employers with up to 10 employers though not compulsory
b) Financial sustainability	- Basic Health Care Provision Fund which provides some earmarked funds from the National Health Act 2014 is recognized as a funding source. - The establishment of State Health Insurance Agencies or Contributory Schemes - Establishment, management and funding sources for the Vulnerable Group Fund (VGF)	- BHC PF is not contained in this Act. - There is mention of State Health Insurance Agencies or Contributory Schemes in the Act - The Act does not recognize the VGF

Table 3 shows that regarding equity in contributions for health insurance, the NHIA Act 2022 makes provisions for funds to cover the premiums of vulnerable groups including pregnant women, children under the age of five, people with disability, elderly people and the very poor, whereas the NHIS Act 2004 did not make any such provisions. With respect to equity in access to healthcare services, the NHIA Act specifies a Basic Minimum Package of Health Services (BMPHS) for all Nigerians across all health insurance schemes, unlike the NHIS Act which is silent on this.

Table 3: Features of the NHIA Act 2022 and NHIS Act 2004 for ensuring equity in contributions and access to healthcare by the covered population.

Features	NHIA Act 2022	NHIS Act 2004
a) Equity in contribution for Health Insurance	- The establishment of vulnerable Group Fund which caters for those who will not be able to contribute for health insurance. - The VGF contribution for the vulnerable population will be made from the BHC PF.	- No provision for VGF in this Ac - No such provision in this Act
b) Equity is access to healthcare services	The Act made provision for the Basic Minimum Package of Health Services (BMPHS) for all Nigerians across all health insurance schemes.	Not specified in this Act

The features of the NHIA Act 2022 and NHIS Act 2004 for ensuring strategic purchasing of healthcare services are highlighted in table 4. The findings show that the NHIA Act has features of strategic health purchasing including, defined package of benefits for the population covered, defined criteria for provider selection and contracting, output-based provider payment mechanisms (capitation and fee-for-service reimbursements), and the reduction of the powers of third party in the implementation of health insurance in Nigeria. The NHIS Act on the other hand, lacks these features.

Table 4: Features of the NHIA Act 2022 and NHIS Act 2004 for strategic purchasing of healthcare services

Features	NHIA Act 2022	NHIS Act 2004
a) What health services to purchase	The BMPHS was defined as the standard benefit package in the Act	Standard benefit package not defined in the Act.
b) Where health services can be purchased	The Act outlined the role of the Authority in ensuring that healthcare facilities pass through the accreditation process as will be contained in the operational guidelines	Accreditation is mentioned but detailed roles of the Scheme not outlined.
c) How health services will be purchased	The Act specified capitation and fee for service as the main provider payment methods	No specified in this Act
d) Use of Third-Party Administrator	- The Act maintain that the role of all third party will be as assigned by the Authority Council - Non-membership of the active stakeholders in the governing Council of the Authority	- This Act bestowed many powers on the TPA such as the responsibility for the collection of contributions from eligible employers and employees under this Decree; and the collection of contributions from voluntary contributors. - Has the members of major stakeholders in the Governing Council

Implications of the features of the NHIA Act 2022 for UHC

1) Sustainable financial risk protection

Mandatory contribution: The mandatory contribution in the NHIA Act will ensure that more Nigerians will be protected from out-of-pocket payment and the resource pool will be widened and with a better risk pooling. The mandate that employers with 5 or more employees must contribute for health insurance will contribute to scaling up coverage for small enterprises and other homogenous cohorts.

Financial sustainability: BHCPF funding is sustainable since it is an Act of the National Assembly, and its funding is deducted as first line charges of 1% consolidated revenue of the Federal Government.

The establishment of SHIA or contributory schemes in the NHIA Act will ensure more that more funds are pooled at the sub regional level and more funds made available for service delivery.

The availability of VGF will ensure that more of the vulnerable population who will not be able to contribute owing to their socioeconomic condition will be covered in a more equitable manner using this fund.

2) Equity in contributions and access to healthcare services

Equity in contribution for health insurance: The earmarking of VGF will ensure the availability of sustainable funds for those who cannot afford to pay for healthcare (including premium payments for health insurance) will be covered and protected from catastrophic and impoverishing expenditures in event of ill-health.

Equity is access to healthcare services: The specification of a BMPHS for all covered will ensure equitable access to quality and essential health services based on need.

3) Strategic purchasing of health services

Defined package of benefits: The defined benefit package will reduce issues of under supply and ambiguity on what is covered thus improving the quality of care received by the covered population.

Defined criteria for provider selection and contracting: This will improve compliance to set standards and maintenance of quality of care as contained in the operational guidelines. This is important in compliance enforcement and sanctions.

Output-based provider payment mechanisms: This will enable the Authority to develop gatekeeping processes for the approved provider payment method thus minimizing the disadvantages of the different payment methods.

Use of Third-Party Administrator: This will eliminate confusion in the health insurance industry and ensure the roles of regulation and coordination of health insurance policies lies with the Authority.

Discussion

The finding of this study clearly suggested that a well written and defined public health law as seen in the National Health Insurance Authority Act, 2022 which is a clear departure from the National Health Insurance Scheme Act of 2004 will facilitate attainment of Universal Health Coverage if fully operationalized.

The emphasis on Universal Health Coverage (UHC) is ensuring that all people have access to needed promotive, preventive, curative and rehabilitative health services, of sufficient quality, while ensuring that people do not suffer financial hardship when paying for services⁵. Therefore any health law in Nigeria that will make a difference in the drive towards UHC must address this core area as outlined in the UHC concept above. The three core areas of UHC analyzed in the results above are financial risk protection, quality of care and equity. The primary emphasis on these areas are achieving UHC through increased public spending on health, in more equitable way of financing it, thus the proposal of the Lancet Nigeria Commission remains apt. The Commission's position on the need for government to invest more on health through health insurance with the goal of providing health insurance coverage for 83 million poor Nigerians who cannot afford to pay premiums buttresses the importance of a new health law that will address challenges of financial suitability for Universal Health Coverage especially in a large informal sector like Nigeria⁴.

The study revealed that the National Health Insurance Authority Act 2022, made contribution to health insurance compulsory as against the voluntary nature in the 2004 NHIS Act. The great essence of mandatory contribution to health insurance towards Universal Health Coverage cannot be overemphasized. This is because with a mandatory contribution, more population will be covered and the regressive out of pocket payment which leads to poverty will be reduced. This study is in agreement with a similar study on health insurance law reform in Rwanda where health insurance became mandatory for all individuals in 2008; in 2010 over 90% of the population was covered from an abysmally low coverage before 2008. In 2012, only about 4% were uninsured⁶. The study also showed that the 2022 health insurance law in Nigeria has a financial sustainability plan with well outlined funding sources which is predominantly through public spending. This is critical in ensuring that the covered population does not suffer for lack of resources to pay for their healthcare needs.

Equity in access and contribution for healthcare is also very necessary in any health law to ensure that the poor and vulnerable are protected equitably. The National Health Insurance Authority Act of 2022 has a clear provision for the finding of the vulnerable population through the Vulnerable Group Fund. The VGF with defined funding sources will be used according to the NHIA Act 2022 to care for the weak and vulnerable in the society who will not be able to contribute for health insurance based on their current socioeconomic status. The new Act identified BHCPE, appropriations, grants, donations, levies, and return on investments as major funding sources for the VGF. These sources of funds are predominantly public sources and situate appropriately in the quest for equitable health financing for the UHC concept which is anchored on public spending.

The issue of quality of care which is a great essence in the quest for Universal Health Coverage was also well highlighted in the NHIA 2022 Act. It defined the benefit package in Nigeria as the Basic Minimum Package of Health Services (BMPHS) which hitherto does not exist. This is believed to improve quality of care and minimizes the ambiguity on what is covered or not amongst insured population. The accreditation and licensure of healthcare facilities is also prominently contained in the new health insurance law. This position gives the Authority the legal background for all contractual agreement with health service providers and also

enables them in her regulatory function and application of sanctions to airing providers. The NHIA 2022 Act agreed on capitation and fees for service as provider payment methods. The policy implication of this outlined payment method is to enable the Authority develop gate keeping processes that will checkmate the disadvantages of any of these payment methods. The use of third party administrator, mainly the Health Maintenance Organizations in the administration of health insurance in Nigeria has been documented to be a bottle neck and barrier to quality healthcare⁷. Limiting the power of third party in the NHIA law and removal of all active stakeholders in the governing council of NHIA law is believed to be a quality masterstroke. The Act did not allocate any purchasing role such as collection of premium, payment of providers etc as was in the NHIS 2004 law to any third party⁹; however, the new law specified that their roles will be as may be determined by the Authority.

Conclusion

The study concludes by agreeing that if the National Health Insurance Act, 2022 is fully operationalized, Nigeria will be on her shortest route to achieving Universal Health Coverage. While certain limitation are noted in this study, it does not in any way negate the fact that the new NHIA law is a far improvement of the erstwhile NHIS law which has contributed to low population coverage after many years of use by stakeholders. It is therefore recommended that health insurance laws that address the key pillars of Universal Health Coverage that centres on financial risk protection, quality of care and equity should be adopted to achieve any nation's health system goals.

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