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Whistle Blower Policy

Ayushman Bharat Pradhan Mantri Jan Arogya Yojana & National Digital Health Mission, National Health Authority

1. Preface

- 1.1 Ayushman Bharat Pradhan Mantri Jan Arogya Yojna is a flagship program of the Government of India. This program will cover over 10 crore poor and vulnerable families (approximately 50 crore beneficiaries) providing coverage up to 5 lakh rupees per family per year for secondary and tertiary care hospitalization. This will be the world's largest government funded health care programme.
- 1.2 National Digital Health Mission has been launched by NHA with an aim to develop the backbone necessary to support the integrated digital health infrastructure of the country. It will bridge the existing gap amongst different stakeholders of Healthcare ecosystem through digital highways.
- 1.3 For effective implementation of ABPM-JAY and NDHM, an autonomous entity, *National Health Authority (NHA)* was constituted. The NHA is providing **overall vision and stewardship for design, roll-out, implementation and management of ABPMJAY and NDHM in alliance with state governments**. Inter-alia, this includes, formulation of ABPM-JAY and NDHM policies, development of operational guidelines, implementation mechanisms, co-ordination with state governments, monitoring and oversight of ABPM-JAY and NDHM amongst other.
- 1.4 The ABPM-JAY and NDHM Whistle Blower Policy is framed by the NHA as a step towards strengthening transparency and accountability in the implementation of ABPM-JAY and NDHM. The ABPM-JAY and NDHM Whistle Blower Policy has the following objective:

“to establish a mechanism to receive complaints relating to disclosure on any allegation of corruption, medical and non-medical fraud or wilful misuse of power or wilful misuse of discretion against any stakeholder involved with the implementation of ABPM-JAY and NDHM and to inquire or cause an inquiry into such disclosure and to provide adequate safeguards against victimisation of the person making such complaint and for matters connected therewith and incidental thereto.”
- 1.5 The SHA i.e. State Level Agencies implementing ABPM-JAY and NDHM are encouraged and advised to adopt a Whistle Blower policy on similar lines.

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2. Definitions

In this ABPM-JAY and NDHM Whistle Blower Policy, unless the context otherwise requires:

- a. **"Applicable Laws"** shall mean laws of India.
- b. **"Competent Authority"** means an officer who will nominate the Whistle Officer and would lead the constitution of Whistle Committee to conduct a detailed investigation under this Policy. He/ She shall also be the officer who will take a final decision on the investigation report submitted by Whistle Committee and shall also look into appeals from the Whistle Blower and recommend disciplinary action if any as per the procedure laid down in this Policy and/or as per applicable law.
- c. **"Complaint"** means the written Communication by Whistle Blower containing Protected Disclosure and Letter of Identity of the Whistle Blower.
- d. **"Whistle Officer"** means an officer who is nominated/ appointed to conduct detailed investigation of the Protected Disclosure received and who will submit the initial Report to the Whistle Committee.
- e. **"Whistle Committee"** means the Committee formed and constituted for the purposes of this policy under approval and jurisdiction of the Competent Authority. The Whistle Committee shall further deliberate on the investigation Report submitted by the Whistle Officer following the principles of natural justice. The Committee may seek assistance of any other official as may be required on specific approval of Competent Authority. The committee composition may be made as follows:
 - i Chair: Director equivalent officer from NDHM team (as of now, Director IT may be represented)
 - ii Co-chair: Director equivalent officer from PM-JAY team (as of now, Director BE may be represented)
 - iii Division head, admin division
 - iv Legal officer, NHA
- f. **"Disciplinary Action"** shall mean any action that can be taken by the Competent Authority on the completion of the investigation proceedings including but not limited to a warning, imposition of fine, initiation of civil or criminal proceedings under the applicable laws/ conduct rules, suspension/ dismissal/ demotion/ from official duties or any such action as is deemed to be fit considering the gravity of the matter.
- g. **"Good Faith"** shall refer to a communication from an individual deemed to be communicating in 'good faith' if there is a reasonable basis for communication of unethical and improper practices or any other alleged wrongful conduct.
- h. **"ABPM-JAY"** shall mean the Ayushman Bharat Pradhan Mantri Jan Arogya Yojana, a national program launched by the Government of India in 2018.
- i. **"NDHM"** shall mean the National Digital Health Mission

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- j. **“ABPM-JAY and NDHM Whistle Blower Policy”** shall mean and be referred to as **“this policy/ Whistle Blower Policy”** aimed at establishing a mechanism to receive complaints relating to Protected Disclosure on an allegation of corruption or wilful misuse of power or medical/non-medical fraudulent activity or wilful misuse of discretion against NHA , its staff and consultants involved with the implementation of ABPM-JAY and NDHM, and to inquire or cause an inquiry into such Protected Disclosure and to provide adequate safeguards against victimisation of the person making such complaint and for matters connected therewith and incidental thereto;
- k. **“Protected Disclosure”** means a concern raised through a written communication made in good faith that discloses or demonstrates information that may evidence unethical or improper activity. Protected Disclosures should be factual and not speculative in nature. Procedure related to a Protected Disclosure shall be read as per clause 4 hereunder.
- l. **“SHA”** or the **“State Health Agency”** shall mean the Agency/institution set up by a State Government for the administration and implementation of the ABPM-JAY and NDHM.
- m. **“Staff”** shall mean any person employed as an employee and/or engaged by NHA and shall include individuals on deputation, contract, temporary, probationer, apprentice, trainee, part time employees / workers, full time consultants, holding permanent, honorary, ad hoc, voluntary or short-term positions. For the limited purpose of this policy term “Employee” includes vendor.
- n. **“Whistle Blower”** shall mean staff, who makes a Protected Disclosure and undertakes the activity of Whistle Blowing. The Whistle blower is not expected to prove the truth of the allegation; but he/she needs to demonstrate sufficient grounds for concern and good faith.

3. Concept of Whistle Blowing:

Whistle Blowing is, a mechanism to receive complaints relating to disclosure on any allegation of corruption or wilful misuse of power/discretion against NHA and its staff as defined in clause 2(k) hereinabove involved with the implementation of ABPM-JAY and NDHM to inquire or cause an inquiry into such Protected Disclosure and to provide adequate safeguards against victimisation of the person making such complaint and for matters connected therewith and incidental thereto.

4. Procedure of handling Complaint:

- 4.1 All complaints containing Protected Disclosures will be made to the Whistle Officer. However if the Complaint containing Protected Disclosure is against Whistle Officer than Complaint shall be made directly to Competent Authority.
- 4.2 Every Protected Disclosure shall be made in writing by electronic mail (e-mail) or by sending a typed and signed letter in a sealed envelope by post / courier or hand

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delivered in accordance with the procedure laid down below. All such Protected Disclosures shall include full particulars of the Whistle Blower. The Whistle Blower should give his/her name, address and/or other identity details in a separate attached letter in the Complaint which should be detachable from the Protected Disclosure (hereinafter be referred as “**Letter of Identity**”). Protected Disclosure (shall contain details adequate enough for Whistle Officer to take cognizance of the complaint) and be accompanied by supporting documents, or other materials, if any. The Whistle Officer and or the Whistle Committee may, if it deems fit, call for further information or particulars from the person making the disclosure.

- The envelop shall be superscribed with “**Complaint under ABPM-JAY and NDHM Whistle Blower Policy**” marked “**Private and Confidential**”
 - If not superscribed properly and if the Letter of Identity is not in a detachable sheet as specified hereinabove, identity of the Whistle Blower may be compromised.
 - Email disclosures shall be made only at the following mail addresses: Mail IDs of the Whistle Officer: Email procurement.division@nha.gov.in with subject line as “with “**Complaint under ABPM-JAY and NDHM Whistle Blower Policy**”.
 - If the complaint is against the administration/procurement division, the email disclosure shall be made only to Chair of the Whistle Committee: Email ed.it@nha.gov.in
- 4.3 If the complaint pertains to one of the members of the committee, that member shall be replaced by a suitable member as per the decision of the Chair. If the complaint is against the Chair, then decision to appoint Chair for the purpose of that particular case may be taken by DyCEO NHA.
- 4.4 It is recommended that each complaint/Protected Disclosure shall include the following minimum information in the format indicated herein this clause: the type of alleged wrongdoing, the location and time period when the event(s) occurred the dates and places wherever possible, the individuals allegedly involved, how the individual, organization or company committed the alleged wrongdoing, why the whistle-blower believes that the conduct should be investigated and why he/she is reporting the matter etc. . It should be specifically stated in the Complaint by the Whistle Blower whether the whistle-blower wants an acknowledgement of the complaint sent by him/her. Further, there should be documents and references to other sources to support the complaint.

5. Handling the Protected Disclosure:

- 5.1 NHA shall set up a centralised registry of all Complaints received under this Policy. Every Complaint received by shall have an identification reference number assigned to it and shall be acknowledged if the complainant has specifically requested for an acknowledgement in its complaint.
- 5.2 The Whistle Officer shall ensure a prima facie assessment of all Complaints to determine the need for further action on the Complaint. Whistle Officer shall seek for

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additional documents if required to proceed for further investigation. The Whistle Officer shall detach the Letter of Identity, maintain the Original Copy of the Complaint in his official records and shall submit its findings along with photocopy of Protected Disclosure (ensuring protection of identity of Whistle Blower) to Whistle Committee not later than 30 days from the date of receipt of Protected disclosure/Complaint. The Whistle Committee, thereon shall conduct such investigations in a timely manner and shall submit a written report containing the findings and recommendations to the Competent Authority as soon as practically possible and in any case, not later than 60 (sixty) days from the date of receipt of the findings from Whistle Officer. The Competent Authority may allow additional time for submission of the report based on the circumstances of the case. During this assessment, the Whistle Committee may jointly examine the allegations.

- 5.3 If the Whistle Committee decides to proceed with investigating the complaint, it shall:
- Conduct the enquiry in a fair, unbiased manner;
 - Ensure complete fact-finding;
 - Maintain strict confidentiality,
 - Decide on the outcome of the investigation, whether an improper practice has been committed and if so by whom;
 - Recommend an appropriate course of action - suggested disciplinary action, including dismissal, and preventive measures; and
 - Record Committee deliberations and document the final recommendation report for onward submission and final review by the Competent Authority.
- 5.4 For the purpose of making discreet inquiry or obtaining information the Competent Authority shall be at liberty to take assistance of the existing law enforcement agencies and investigating agencies, or any other authority as may be considered necessary.
- 5.5 For the Purposes of any such enquiry, the Competent Authority shall have the powers of summoning, enforcing attendance, discovery and production of any document, receiving evidence on affidavits, examination of witnesses or documents and such other matters as may be prescribed from time to time.
- 5.6 Whilst it may be difficult for the Whistle Officer to keep the Whistle Blower regularly updated on the progress of the investigations, she/he will keep the Whistle Blower informed of the result of the investigations and its recommendations to the extent possible, subject to any obligations of confidentiality.
- 5.7 In exceptional cases, where the Whistle Blower is not satisfied with the outcome of the investigation carried out by the Whistle Officer or the Whistle Committee, he/she can make a direct appeal to the Competent Authority. Competent Authority may act on the appeal (Review/ order a fresh investigation. Whistle Committee may send him new report. The Competent Authority may accept or dismiss Appeal on the reasons recorded in the final report and the final outcome is thus communicated to Whistle Blower accordingly.

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6. Confidentiality:

Whistle blowers are encouraged to share their identity along with their protected disclosures. Whistle Officer, Whistle Committee and Competent Authority shall ensure confidentiality of all information arising from whistleblowing reports. It shall treat all reports, including the identity of the Whistle Blower and the person/s complained of, in a confidential and sensitive manner. The identity of the Whistle Blower will be kept confidential, unless compelled by law or the Courts to be revealed, or unless the Whistle Blower authorized the release of her / his identity or releases his/her identity himself/herself.

7. Protection against retaliation and victimisation:

- 7.1 Retaliatory acts against Whistle Blowers who submit whistleblowing Complaints in good faith shall not be tolerated by the NHA and shall extend all possible assistance to the Whistle Blower under existing laws.
- 7.2 NHA will not tolerate the harassment or victimization of anyone raising a genuine concern. Any other Staff/Person/business associate assisting in the said investigation shall also be protected to the same extent as the Whistle Blower. Any Whistle Blower who believes he/she is being retaliated against must contact the Competent Authorities immediately.

8. Offences and penalties:

- 8.1 Any action that violates one or more of the provisions of this Policy in general and Clause 7 of this Policy in particular shall be deemed to be an offence and shall be dealt with by the Competent Authorities as per the provisions of the Policy and Applicable Laws.
- 8.2 The Competent Authority shall have the powers to take cognizance of offences based on Complaints or on its own assessment. It shall decide on offences based on the principles of Natural Justice and as per the provisions of existing and Applicable Laws and shall have the power to cause suspension/ dismissal/ demotion/ from official duties or any such action as is deemed to be fit considering the gravity of the matter and may seek recourse to law enforcement agencies and take such legal action which may be civil and/or criminal in nature as per applicable laws of India.

9. Reporting and monitoring:

A quarterly status report on the total number of Complaints received during the period, with summary of the findings of the Whistle Committee and the corrective actions taken will be sent by the Whistle Officer to the Competent Authority.

10. Amendment:

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NHA is entitled to amend, suspend or rescind this policy at any time. Whilst, NHA has made best efforts to define detailed procedures for implementation of this policy, there may be occasions when certain matters are not addressed or there may be ambiguity in the procedures. Such difficulties or ambiguities will be resolved in line with the broad intent of the policy. NHA may also establish further rules and procedures, from time to time, to give effect to the intent of this policy and further the objective of good corporate governance.
