



Ref: IRDA/TPA/ORD/MISC/279/12/2014

**FINAL ORDER**

**In the matter of M/s Safeway TPA Services Pvt. Ltd.**

This is based on two different replies to Show Cause Notices, one vide letter Ref. No. STS/2014-15/2001 dated 23-05-2014 which was submitted in response to Authority Notice to Show Cause dated 20-05-2014 and other vide letter Ref. No. STS/2014-15/02004 dated 08-09-2014, submitted in response to Authority Notice to Show Cause dated 27/28-08-2014.

Two different Show Cause Notices, (SCN) on observed deficiencies in the functioning of licensed TPA namely; Safeway TPA Services Pvt. Ltd. (Safeway TPA / the TPA) were issued. In both the cases it is noted that Safeway TPA has not sought for any opportunity to hear them. It is therefore, concluded that the TPA concerned is not exercising the opportunity given by the Authority.

The submissions made by the TPA in their written replies to both the Show Cause Notices issued by the Authority were taken into account.

The findings on explanation offered by Safeway TPA to the issues raised in both the Show Cause Notices and the decisions are as follows;

**Charges as per Authority Notice to Show Cause dated 20-05-2014:**

**1. Charge No. 1 of SCN dated 20-05-2014:**

Safeway TPA had not submitted Annual Report of their Company for the FY 2012-13 within the stipulated time.

**The above is Violation of Reg. 24 (2) of IRDA (TPA – Health Services) Regulation, 2001.**

**2. Charge No. 2 of SCN dated 20-05-2014:**

Safeway TPA vide e-mail had confirmed that the annual report for FY 2012-13 will be submitted by 20-09-2013. The said time line also was not adhered by Safeway TPA. This is not a professional manner of dealing with the matters of Regulatory Compliance issues.

**The above is Violation of Reg. 21 (1) of IRDA (TPA – Health Services) Regulation, 2001.**

**Reply of Safeway TPA:**

Safeway TPA had submitted various reasons for delay in submission of annual report of their Company.

**Decision (Charge No. 1 & 2 of SCN dated 20-05-2014) :**

There was a delay in submission of annual report for the year 2012-13 by Safeway TPA, in view of the same all the charges mentioned above are proved.



**Charges as per Authority Notice to Show Cause dated 27/28-08-2014:**

**3. Charge No. 1 of SCN dated 27/28-08-2014:**

As per submission of Safeway TPA, Capt. Mahesh Sharma had resigned from post of CEO of Safeway TPA and was relieved from the duties w.e.f. 25-03-2012. Further, Capt. Sharma, again joined on the same post w.e.f. 04-06-2012 in the TPA Company. Thus, as per submission of Safeway TPA there was no CEO/CAO and / or qualified person with their Company for two and half months. Further, Safeway TPA had not given due intimation to the Authority about reappointment of Capt. Mahesh Sharma on the post of CEO.

However, it was observed that, the appointment letter dated 01-06-2012 offering post of CEO, was accepted by Mr. Mahesh Sharma only on 04-06-2014. Thus, it is evident that there was no qualified CEO in Safeway TPA for the period from 25-03-2012 to 03-06-2014 i.e. for more than two years.

The above is in **violation of** Reg. 8 (1) to be read with Reg. 8 (4) (1), 8 (4) (2), 8 (4) (3) of IRDA (TPA - Health Services) Regulation, 2001.

**Reply of Safeway TPA:**

Safeway TPA submitted that it is just a signing error and they acknowledge the fact that CEO was not available for their Company for the period from 25-03-2012 to 04-06-2012.

**4. Charge No. 7 of SCN dated 27/28-08-2014:**

Safeway TPA right from financial year 2007-08 till 2013-14 (**last seven years**) had never submitted annual report of their Company within stipulated time.

The Authority vide letter dated 20-05-2014 had issued SCN to Safeway TPA for delay in submission of annual report for the FY 2012-13. The same was responded by the TPA vide e-mail dated 23-05-2014.

However, it was again noted that in spite of the following;

- a. Issuance of SCN in the matter of delay in submission of Annual Report for FY 2012-13, and
- b. guidelines of the Authority sent vide e-mails dated 01-04-2014, 05-05-2014 and 19-05-2014 in the matter of submission of Annual Report for the year 2013-14,

Safeway TPA had continued to repeat the violation of not submitting the annual report for FY 2013-14 within stipulated time. **This is in Gross Violation** of Reg. 24 (2) to be read with Reg. 25 (3) of IRDA (TPA – Health Services) Regulation, 2001.

**Reply of Safeway TPA :**

We have already humbly accepted the unintentional delay of Annual Report and have taken it in all seriousness to maintain the stipulated time limits



**Decision (Charge No. 1 & 7 of SCN dated 27/28-05-2014):**

Violations pertaining to non-availability of CEO / Qualified Person for a considerable period and delay in submission of TPA Company annual report for last seven years are of serious nature.

**5. Charge No. 2 of SCN dated 27/28-08-2014:**

Safeway TPA had undertaken that CEO Capt. Mahesh Sharma is responsible for day to day administration of the activities of the Safeway TPA.

However, from the Authority records for Safeway TPA, it was noted that from year May 2008 onwards, Authority has not received any communication from Capt. Mahesh Sharma, CEO. Further, it was noted from annual reports of Safeway TPA for F.Y. 2012-13 and 2013-14 that Form Nos. 4 (1) to (7) of annual reports were not signed by CEO Capt. Mahesh Sharma as stipulated in Reg. 24 (2) of IRDA (TPA – Health Services) Regulation, 2001, and were signed by two Directors of the TPA.

It is evident from the above though that CEO of Safeway TPA is not engaged in day to day administration of the activities. Thus the TPA Company had given wrong / misleading undertaking to the Authority.

The above is in **violation of** Reg. 24 (2) of IRDA (TPA – Health Services) Regulation, 2001 to be read with Reg. 21 (1) to be read with Reg. 25 (3) of IRDA (TPA - Health Services) Regulation, 2001.

**Reply of Safeway TPA:**

Safeway TPA had resubmitted copy of Annual Report for FY 2013-14 duly signed by their worthy CEO, with an undertaking that in future they shall be submitting annual report signed by CEO.

**6. Charge No. 3 of SCN dated 27/28-08-2014:**

Safeway TPA in their different communications had submitted different versions in the matter of reason for reappointment of Capt. Mahesh Sharma, CEO

The Authority raised the said query with the TPA. The response received by Safeway TPA was vague and not satisfactory. It is evident that Safeway TPA failed to submit true and correct document / clarification to the Authority.

This non-submission of true and correct information / document / clarification to the Authority **is in violation of** Reg. 25(3) to be read with Reg. 21 (1) of IRDA (TPA- Health Services) Regulation, 2001.

**Reply of Safeway TPA:**

The statement is as per the facts provided by the CEO himself, and there is no ground to cross question him on his submission of facts. We had accepted the grounds on face value and provided him another opportunity to continue with us in the same capacity.



**7. Charge No. 4 of SCN dated 27/28-08-2014:**

Safeway TPA in their letter had confirmed that proper arm length distance is being maintained between their Company and Safeway Insurance Brokers Pvt. Ltd. (Safeway Brokers). It was further confirmed that they are running their Company in the most professional manner without any clash of interest.

However, from the related Party transaction of annual report of Safeway TPA for the financial year 2013-14 it was noted that, Safeway TPA had rendered loan to and also taken loan from Director of Safeway Broker. It is evident that there are business relations between two licensed entities of the Authority dealing in insurance or insurance related activities.

Thus, Safeway TPA had given wrong / misleading statement to the Authority. This, submission of wrong / misleading information is not a professional manner of dealing with regulatory compliance issues.

The above is **in violation** of Reg. 21 (1) of IRDA (TPA – Health Services) Regulation, 2001.

**Reply of Safeway TPA:**

Considering the financial constrains due to delayed receivables a short term personal loan was taken from Director of Safeway Broker, which was cleared in the same financial year. However it has been noted for future and an arm length distance would be maintained.

**8. Charge No. 5 of SCN dated 27/28-08-2014:**

It was noted from the records that Ms. Daljeet Kaur Chadhha was promoter / director of Safeway TPA, expired on 23-11-2011. However, from the shareholding pattern as per Form TPA-3 i.e. application for renewal of license dated 18-03-2014, it was noted that Late Mrs. Dajit Kaur is holding 37.50% shares of Safeway TPA. The said query was raised with the TPA, that how a shareholding can be continued in the name of deceased person. In response to Authority letter Safeway TPA confirmed that;

*"We confirm the share holding percentage of Mrs. Daljit Kaur as per certificate submitted but after she expired the proposed shareholding pattern has already been referred to IRDA for approval, which is yet to be confirmed for change of her share."*

However, as per records the Authority have not received any request for change in share holding pattern in the matter. Upon raising this fact with Safeway TPA, the TPA had submitted that;

*"The revised schedule shall be applied again to you for approval immediately after the renewal of current license"*

Safeway TPA along with both the above mentioned communications had not submitted any proof, that they had referred the matter of change in shareholding pattern to the Authority. Thus, from the above mentioned response of Safeway TPA, it is evident that, the TPA Company had not submitted any request for change in shareholding pattern with the Authority and had given wrong / misleading statement to the Authority vide their letter dated 25-05-2014. This is not a professional manner to deal with regulatory compliance issues.





The above is in violation of Reg. 21 (1) to be read with Reg. 25 (3) of IRDA (TPA – Health Services) Regulation, 2001.

**Reply of Safeway TPA:**

We regret in case it has not reached to you, however the revised Share Holding Pattern will be submitted again for your kind approval at earliest.

**9. Charge No. 6 of SCN dated 27/28-08-2014:**

Safeway TPA had undertaken that their Company is not engaged in any other business apart from TPA activity as defined in the TPA Regulation.

However, it was noted from annual report of Safeway TPA for the financial year 2012-13 that, the TPA had generated income of Rs. 4.35 lakhs from Software & Hardware Installation.

The above is in violation of Reg. 3 (2) to be read with Reg. 21 (1) of IRDA (TPA – Health Services) Regulation, 2001.

**Reply of Safeway TPA:**

As part of TPA services and our agreement signed with respective insurers, we have to install the hospital transaction software / hardware in Govt. Hospitals and the amount gets reimbursed by the insurance Company.


**Decision (Charge No. 2 to 6 of SCN dated 27/28-05-2014):**

The licensed entity was granted license first in the year 2005 and has completed more than nine years of existence and has undergone the process of three renewals. The deficiencies pointed out by the Authority and concurred by the licensed entity could, very well, have been declared voluntarily or at least during submission of various requirements / undertaking needed to consider for renewal of their TPA license. Obviously, the company has failed, which only reflects the casual attitude while making submissions to the Regulatory Authority.

In view of (i) various violations of the Regulation / guidelines / circulars referred to at points 1 to 9 above and (ii) submission of incorrect information to the Authority as indicated at point no. 5 to 9 above, the Authority in exercise of powers vested under Section 102 of the Insurance Act, 1938, imposes a penalty of Rs. 5,00,000/- (Rs. Five lakhs only) on M/s. Safeway TPA Services Pvt. Ltd.

The penalty amount shall be remitted through NEFT/ RTGS (details for which will be communicated separately) within a period of 07 days from the date of receipt of this Order. An intimation of remittance shall be sent to Ms. Yegna Priya Bharath, Joint Director (Health) at the Insurance Regulatory and Development Authority, 3rd Floor, Parisrama Bhavanam, Basheerbagh, Hyderabad 500 004.

Place : Hyderabad  
Date : 22-12-2014

  
M. Ramaprasad  
Member (Non-Life)