TOWARDS EFFECTIVE REGULATION OF PUBLIC HEALTH INSURANCE IN NIGERIA: COMPARATIVE LESSONS FROM AUSTRALIA*

ABSTRACT

The fundamental purpose of public health insurance is to attain Universal Health Coverage. Nevertheless, the successes, or otherwise, of health insurance services in any nation is largely influenced by effective laws, regulation, and policies. This study comparatively examined the legal framework for the regulation of public health insurance in Nigeria and Australia. The aim is twofold. First is to determine the adequacy, or otherwise, of the legal regime in Nigeria; and second, if the Nigeria's legal regime is inadequate, extract legal and policy lessons from Australia for policy reformers in Nigeria. The study argued that while Nigeria recently reform the legal framework for public health insurance by introducing the National Health Insurance Authority Act 2022, there are still some legal challenges to be surmounted. Informed by the legal and policy lessons from Australia, this article concluded with reform suggestions towards effective regulation of public health insurance in Nigeria.

KEYWORDS: Insurance. Laws. Public Health. Regulation. Nigeria. Australia.

I. Introduction

The value of health insurance, in general, is rooted in the risk of inability to pay for medical costs and pharmaceutical expenses.[1] The fundamental concern with risk is that it is a future event that is outside the control of insured and insurer, which may, or may not occur; one that is uncertain, probable, contingent, fortunate or unfortunate.[2] In any case, a risk is feared for its possible consequences.[3] In the context of health, there is uncertainty in both the nature and incidents of sickness, disease, efficacy of treatment, and the cost to be expended by a patient. This is technically referred to as 'health risk'. While health risk cannot be prevented, it can be managed. Thus, the contingent nature, and the feared consequences of the possible inability to manage health risks when they occurs has given birth to different risks control mechanisms,[4] one of which is 'public health insurance'- the focus of this study.

Public health insurance is an arrangement under which the health risk is pooled and redistributed across many insured patients and other health care stakeholders such as government and health care providers. This may be through private funded (out-of-pocket) insurance arrangement or public funded (government) health insurance coverage, or both.[5] On the part of the government, public health insurance is akin to social security intervention mechanism for citizens and residents who may not afford

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[1] Generally, see the following literature: Anyene C Ben, "International Best Practices in Health Insurance Regulation", African Journal of Health Economics, vol.2., 1. (2014); Kevin Croke & Osondu & Ogbuogi, "Health Reforms in Nigeria: the Politics of Primary Health Care and Universal Health Coverage", Health Policy & Planning, vol.39(1), 22 – 31. (2024); Funmi Adeyemi, *Nigerian Insurance Law* (Concept Publications, Lagos, 2nd edn., 2013).
[2] Chioma Agomo, *Modern Nigeria Law of Insurance,* 42 (Concept Publications Ltd, Lagos, 2nd edn., 2013); John Lowry & Philip Rawlings, *Insurance Law: Cases and Materials,* 3 (Hart Publishing, London, 2004); François Ewald, "Risk in Contemporary Society", Connecticut Insurance Journal vol. 6, 365, (2000).
[3] Agomo, supra (n 2).
[4] These include borrowing for treatment, saving funds for future catastrophe, or receiving assistance from friends and family.
[5] This study focused on the public health insurance services from the perspective of law and regulation.

the cost of private health care services or private insurance arrangement. It provides financial protection to the enrollees for the cost of using health care services. Most importantly, public health insurance is a cornerstone for attaining Universal Healthcare Coverage through affordable access to quality health care services, and shielding the society against devastating health risks.

In view of importance of public health insurance and the need to attain the United Nations (UN) Sustainable Development Goal (SDG) 3,[6] governments of different countries have established laws and policies for health care services for their citizens and residents. For instance, Australia has the Health Insurance Act 1973 (as amended in 2023), Human Services (Medicare) Act 1973 and Health Insurance Regulation Act 2018. In Nigeria, the laws include Insurance Act 2003 and National Health Insurance Authority (NHIA) Act 2022. One common thread among this legal intervention is that the primary aim is to expand health insurance coverage, improve access to affordable health care services and realise UN call for Universal Health Coverage.

In Nigeria, access to quality and affordable health care services has continued to pose a fundamental challenge.[7] According to the World Bank, for instance, although Nigeria has a commendable National Health Care Policy that seeks to attain the goal of universal health care for all people, there are serious challenges, such as lack affordability of access to healthcare services.[8] In order to overcome these challenges, the Nigerian has government repealed the National Health Insurance Scheme Act 1999 and enacted the National Health Insurance Authority (NHIA) Act 2022. While this may be described as a laudable reform, the fundamental question is whether the new legal regime is adequately positioned to enable Nigerians to have access to quality and affordable health care services.

[6] It is one of the 17 SDGs established by the UN in the year 2015 to to: 'Ensure healthy lives and promote well-being for all at all ages', available at: https://sdgs.un.ord accessed on the 9th October, 2024.
[7] Croke & Ogbuoyi, supra (n 1).
[8] Word Bank Group, *Nigeria - Health care cost, financing and utilization: Subsector report (English)*. Washington, D.C.: http://documents.worldbank.org/curated/en/447831468098057942/Subsector-report accessed on 9th September 2024.

Consequently, this study analyse the current legal regime for national health insurance Nigeria and Australia. The aim is twofold. First is to determine the adequacy, or otherwise, of the legal regime for public health insurance in Nigeria; and second, if the Nigeria's legal regime is inadequate, extract legal and policy lessons from Australia, which may be useful towards achieving an effective regulation of public health insurance services in Nigeria. The choice of Australia is strategic. Foremost, Australia is one of the leading countries with successful health insurance system in the world.[9] Interestingly, the existing laws and policies provided the enabling environment for the public health insurance to thrive in Australia. Thus, this researcher strongly believed that the legal experience in Australia will serve as a veritable source of reform tools for reshaping the legal and policy regime for public health insurance in Nigeria.

The study is structured into six sections beginning with introduction in Part I, followed by Part II, which is the legal framework for public health insurance in Nigeria. Part III examines the fundamental challenges confronting the current legal framework in Nigeria, while Part IV discusses the comparative legal and policy lessons and experiences from Australia. Part V 5 is the reforms suggested in this study. Part 6 is the conclusion.

II. Legal Framework for Public Health Insurance in Nigeria

The idea of National Health Insurance was first conceptualized in 1960 when Nigeria gained independence. But it appears that for more than twenty years, nothing serious was done towards a tailored legal framework for the actualization of its goals. In 1984, these efforts were renewed with the setting up of a committee by the National Council on Health (NCH) to advise government on the strategy for implementing the National Health Insurance Schemes (NHIS). The recommendations of NCH committee led to the setting up of another NHIS Review committee in 1985. Within this period, NHIS had no extant legislation and was administered by the Ministry of Health.

[9] Mary R. Angeles, Paul Grosland, Martha Hensher, "Challenges for Medicare and Universal Health Care in Australia since 2000", Med. J. Australia, vol.208 (7), 322 – 329. (2023).

According to Omoruan *et al*, at the initial stage, the NHIS collected premium and purchased health services for the formal sector employees. This represented less than 40% of the population. It leaves out over 60% of the unemployed population most of whom were in the informal sector, with over 25% in the rural areas. This problem of excluding the informal sector led to the emergence of some Community Based Health Financing schemes (CBHFs) as an informal insurance model.[10] Nevertheless, these CBHFs faced several challenges such as lack of a legal framework for assessing the quality of health care services. In order to reduce these challenges, the NCH, at its 42nd meeting in 1997, approved the reform of the NHIS to ensure the inclusion of the informal sector. This led to the formation of Social Health Insurance (SHI). The SHI was inaugurated on the 15th October, 1997, which was followed by the enactment of an NHIS Act in 1999.[11] After 23 years, it was discovered that the NHIS Act 1999 requires reform.

Accordingly, it was repealed by the National Health Insurance Authority (NHIA) Act 2022. It established NHIA as a corporate body and provide for the Promotion, Regulation and Integration of Health Insurance Schemes in Nigeria, and for other related matters.[12] It contains 60 sections divided into 10 parts covering different aspects of the health insurance scheme in Nigeria. The objectives of establishing the NHIA are to promote, regulate and integrate health insurance schemes; improve and harness the private sector participation in the provision of health care services amongst other objectives.[13]

In realising the foregoing objectives, the NHIA has 28 statutory functions, which includes, to ensure that health insurance is mandatory for every Nigerian and legal resident;[14] enforce the basic minimum package of health services for all Nigerian across all health insurance schemes operating within the country;[15] ensure the implementation and utilization of the Basic Health Care Provision Funds, grant accreditation to agencies and organisations Health Management Organisations, Mutual Health Associations, Third Part Administrators and so

[10] Some of these CBHFs include: *Lawanson Health Plan* in Lagos and *Ariaria Traders Health Scheme* of Aba.
[11] The NHIS Act was enacted in May 1999, but the implementation was delayed until June 6th 2005.
[12] See the preamble to the NHIA Act 2022.
[13] NHIA Act 2022, s.2.
[14] Ibid, s.3(b).
[15] Ibid, s.3(c).

on;[16] provide and maintain Information and Communication Technology infrastructure and capacity for the integration of all data on health insurance in Nigeria;[17] separately or in collaboration with States or other relevant agencies devise a mechanisms for ensuring that basic health needs of vulnerable persons are adequately provided for;[18] accredit insurance companies, insurance brokers, and banks desirous of participating in health insurance schemes under the Authority.[19]

The NHIA Act 2022 establishes three categories of health insurance schemes, which are: the federal health insurance schemes, state health insurance schemes and private health insurance scheme. Accordingly, section 13(1) and (3) provides that every State of the Federation and the Federal Capital Territory (FCT), may, establish and implement a state health insurance and contributory scheme to its residents, while the Authority shall establish a scheme for the coverage of employees of the Ministries, Departments, and Agencies in the Federal Civil Service and other related bodies. The third is the private health insurance schemes for private sector employers and employees with five staff and above.[20] It may be underwritten separately or as a supplementary package. Accordingly, section 15(2) of the NHIA Act 2022 states that '[a] private health insurance scheme or plan shall cover interested individuals, employers or employees of organisations in the private sector who may want to buy the scheme for supplementary benefits.'

Most importantly, it is now mandatory to participate in health insurance schemes in Nigeria. This is informed by section 14 (1) of the NHIA Act 2022, which states that '…every person resident in Nigeria shall be required to obtain health insurance', subject only to the provisions of the NHIA Act 2022. The description of 'resident' under the NHIA Act 2022 is very wide and include: 'all employers and employees in the public and private sectors with five staff and above; informal sector employees; and all other residents of Nigeria.' By the use of the word "include" in descripting who is a 'resident' under section 14(2) of the NHIA Act 2022, may be interpreted to mean that the category of group of persons listed under the said section

[16] Ibid, s.3(f).
[17] Ibid, s.3(l).
[18] Ibid, s.3(q).
[19] Ibid, s.3(r).
[20] Ibid, s.14(2)

are not conclusive. This is in support of the mandate of the Authority, which is to "ensure that health insurance is mandatory for every Nigerian and legal resident."[21] Besides, although section 3(b) of the NHIA Act 2022 qualifies 'resident' with the word 'legal', section 14(2) did not make similar qualifications. Nevertheless, it is submitted that the essence of public health insurance is to provide public benefits to the insured. In that regard, the beneficiaries would be 'legal resident' because of the trite rule that law cannot aid an illegal resident.

III. Fundamental Innovations Introduced by the NHIA Act 2022

The NHIA Act 2022 together with the NHIA Operational Guidelines 2023, made significant improvement over the repealed NHIS Act 1999 and its Operation Guidelines. These key reforms are considered next.

Establishment of Tripartite Powers of the Authority

The Nigeria's health insurance ecosystem had, under the NHIA Act 2022, witnessed the transformation of the National Health Insurance Scheme (Scheme) to National Health Insurance Authority (Authority). The powers of the Authority is built on three pillars of 'Promotion, Regulation, and Integration' of the health insurance services in Nigeria.[22] Accordingly, sections 2(a) and 3(a) of the NHIA Act 2022 stipulates that 'the objects of the Authority are to promote, integrate and all health insurance scheme that operates in Nigeria.'

In the above respect, the *promotion* of health care services in Nigeria is the first primary functions of the Authority. In that regards, the NHIA Guidelines 2023 further states that the responsibilities of the Authority include to: ensure that the health insurance is mandatory for every Nigerian and legal resident; seek and advocate for funds for the Vulnerable Group Funds; make proposals to the Council for the formation of policies on health insurance; undertake on its own or in collaboration with other relevant bodies a sustained public education on health insurance; devise a mechanism for ensuring that the basic health care needs of the vulnerable group and indigent are adequately provided for in conjunction the

[21] Ibid, s. 3(b).
[22] Ibid, ss. 2(a), and 3(a)

States; undertake research and generate statistics on matters relating to the Authority and carry out any other necessary function.

The second primary function of the Authority is the *integration* of health care services in Nigeria. In realising the this function, the NHIA Guidelines 2023 provide that Authority shall carry out certain functions including to promote, support and collaborate with States through the State Health Insurance Schemes to ensure that Nigerians have access to quality health care that meets national health regulatory standards; provide and maintain Information and Communication Technology (ICT) Infrastructure and capability for the integration of all data on all health schemes in Nigeria; exchange information and data with the National Health Management Information System, Financial Institutions, Federal Inland Revenue Services, State Inland Revenue Services, National Bureau of Statistics, Professional Regulatory bodies and other relevant bodies and individuals for research purposes upon their request; and carry out any other relevant function.

Regulation is third primary function of the Authority. Again, the NHIA Guidelines 2023 further states, for the purpose of regulation, the functions of the Authority shall include: enforce the basic minimum package of health insurance services for all Nigerians across all health insurance schemes operating within the country including Federal, States and Federal Capital Territory as well as private health insurance schemes. Also, the Authority shall ensure the implementation and utilisation of the Basic Health Care provision Fund as required under the National Health Act 2014 and any guidelines as applied by the Minister under the Act. Similarly, the Authority shall provide for the mechanisms for resolving complaints; develop operational guidelines; grant accreditation and re-accreditation to the relevant stakeholders and carry out any other function that is necessary for achieving the objectives of the Authority under the Act.

It must be pointed out that while the mandate of the Authority is to promote, integrate and regulate the health insurance schemes in Nigeria, it is submitted that the Authority must be guided by its objectives and functions as set out in sections 2 and 3 of the NHIA Act. Similarly, the regulatory powers of the Authority must be reconcile with the powers of other insurance regulatory bodies in Nigeria, such as, National Insurance Commissions and the

Nigerian Council for the Regulation of Insurance Brokers, as well as State Governments laws and policies of State Health Insurance Schemes.

Reinforcement of Mandatory Health Insurance in Nigeria

Another innovative aspect of the NHIA Act 2022 is that it makes health insurance mandatory in Nigeria. This is a clear departure from the National Health Insurance Scheme Act of 1999, which simply to 'ensure that every Nigerian has access to good health care services.'[23] However, under the NHIA Act 2022, it is specifically provided that the functions of the Authority is to, among other things, 'ensure that health insurance is mandatory for every Nigerian and legal resident.' This is reinforced by section 14 of the NHIA Act 2022, which also adds that:

14(1) Subject to the provision of this Act, every person resident in Nigeria shall be required to obtain health insurance.

(2) Resident under this Act include:

(a) all employees and employers in the public and private sector with five staff and above

(b) informal sector employees

(c) all other residents in Nigeria

The foregoing does not preclude any resident in Nigeria from obtaining private health insurance provided that such a person participates in any State mandated health scheme. Similarly, for the Nigerians or resident that are vulnerable or indigent, the NHIA Act 2022 established the Vulnerable Group Fund (VGF). While the detail on the VGF is considered in the subsequent part of this study, suffice is to state that the primary objectives of the VGF is to pull funds for the purpose of subsidising the cost of purchasing health care services by vulnerable groups and indigents in Nigeria. In addition, the NHIA Act 2022 establishes informal sector health insurance programmes to cover persons that are with no regular income. These are all statutory measures that are put in place to ensure that no Nigerian and residents are left out in participating in the health insurance schemes in Nigeria.

[23] See National Health Insurance Scheme (NHIS) Act 1999, s.5(a).

Health Insurance Fund for Vulnerable Group

One of the major innovations of NHIA Act 2022 is the recognition of the challenges faced by vulnerable group in having access to quality and affordable health care services in the society. Accordingly, section 25(1) of the NHIA Act 2022 created a statutory funds known as Vulnerable Group Fund (VGF). The purpose of the VGF is to 'provide subsidy to the cost of provision of health care services to vulnerable persons in Nigeria'.[24] Both the NHIA Act 2022 and its Guidelines 2023 defines who is a vulnerable person under the NHIA Act 2022. Accordingly, section 59 of the NHIA Act states that '*vulnerable group* include children under five, pregnant women, the aged, physically and mentally challenged and the indigent as may be defined from time to time.'

However, article 2.10.4. of the NHIA Guidelines 2023 seems to modify the category of persons to be classified as vulnerable group in Nigeria by stating that the beneficiaries of the VGF as:

> *Any household, person or dependent that lives below poverty line based on identified criteria for poverty shall be eligible. This include the children under 5, pregnant women, elderly (> 60years), retirees, persons living with disability, Internally Displaced Persons*.

In defining the vulnerable group in Nigeria, both the NHIA Act 2022 and the Guidelines 2023 used the word "include", which presupposes that the category of persons to be classified as vulnerable are not closed. This is in line with the thoughts of the Nigerian courts in interpreting the word 'include' when used in other statutes. For instance, In the case of *Kennedy v I.N.E.C. & 3ors*[25], the Supreme Court of Nigeria *per* Agim J.S.C. interpreted the word "include" to means "to contain as a part of something." Similarly, the Court of Appeal in the case of *Artra Industries Ltd v NBC*[26], Edozie JCA stated that:

> *The word 'include' in an enactment must be construed as comprehending not only such things as they signify according*

[24] Ibid, s. 26.
[25] (2024) 10 NWLR [Pt. 1945] 109 [143] para E (SC) [Agim J.S.C.].
[26] (1997) I NWLR [Pt. 483] 574 [591] para A-C (CA) [Edozie J.C.A.].

> *to their natural import, but also those things that the interpretation clause declares that they shall include.*

Although the foregoing interpretations were not in the context of the NHIA Act, it is submitted that if called upon to interpret it, the courts are likely to hold that that he categories of persons classified as Vulnerable Groups are not exhaustive. Nevertheless, in selecting those categories of vulnerable groups that are not expressly mentioned, the NHIA Act 2022 Guidelines 2023 added that the eligible population shall be based on: (a) Civil Registration and Vital Statistics (CRVS); (b) Social Register as generated by the states in collaboration with the State Operations Coordinating Unit (SOCU) and harmonised by the National Social Safety-net Co-ordinating Office (NASSCO); and other community and facility targeting mechanisms. In any case, it is the duty of the Council to determine the health insurance coverage of vulnerable persons in Nigeria.[27]

The objective of the VGF is two-ford. The first is to provide finance to subsidise the cost of provision of health care services to vulnerable persons in Nigeria.[28] The second is that the funds are to be applied for the payment of health insurance premium for indigents.[29] Accordingly, the contributions for vulnerable persons, not otherwise covered by other schemes, shall be made on their behalf by one or a combination of the Federal Government, 36 State Governments, 774 Local Government Councils, development partners or non-governmental organisation.[30] In the case of Federal Government, the contributions for the vulnerable persons shall be made from the Basic Health Care Provision Fund.[31] In addition, the Authority may, subject to the approval of the council, invest a part of the VGF that it considers appropriate in securities and deposits.[32] The profit or interests generated from these investments may also serve as source of funding VGF in Nigeria.

The introduction of VGF for the health care services of the vulnerable and indigent persons in Nigeria is highly commendable. It shows gradual increase of interests and policy commitments in providing enabling environment for the vulnerable and indigents persons to

[27] NHIA Act 2022, s.26(2) (a).
[28] Ibid, s.26 (1).
[29] Ibid, s. 26(2) (b).
[30] Ibid, s.31 (2).
[31] Ibid, s. 31(3).
[32] Ibid, s. 29

have access to quality and affordable health care services they need. However, as will be seen in the subsequent part of this work, the VGF needs to be effectively regulated and closed monitored against corruption, embezzlement and other destructive market conducts.

Provision for ICT Infrastructure and Capacity

In with the global trends, the NHIA Act 2022 has established for the first time, the Information and Communication Technology (ICT) Infrastructure for the management of the health insurance schemes data in Nigeria.[33] This is in line with the mandate of the Authority, which is to integrate all health insurance schemes in Nigeria. As noted earlier, section 3(l) of the NHIA Act 2022 stipulates that the 'Authority shall provide and maintain ICT Infrastructure and capacity for the integration of all data on health schemes in Nigeria, including the state health insurance schemes.'

With the introduction of the ICT and data management under the NHIA Act 2022, it is expected that every stakeholder in the health insurance ecosystem shall provide data to the Authority for the purpose of fulfilling this mandate to Nigerians.[34] The data drawn will be managed through enhanced e-NHIA automated system. This will ensure interconnectivity for the purpose of collaboration, data sharing, medical audit and research within the different domains. Access to the health insurance data on the e-NHIA platform shall be determined by the respective responsibilities of each stakeholder in the ecosystem.

Accordingly, all the health insurance stakeholders will be involved in the data collection process, which is to be carried out using standard tools and techniques on monthly, quarterly, and annual basis.[35] The data management are divided into levels of responsibilities as: national, states, health care facility and the HMO, TPAs and MHAs data management levels.[36] All these levels of responsibilities must comply with all applicable domestic and international data protection standards and privacy framework such as the Nigerian Data Protection Regulation (NDPR). Above all, Routine Data Quality Assessment shall be carried

[33] Ibid, s. 3(l).
[34] NHIA Act Guidelines 2023, art. 4.1.
[35] Ibid, art. 4.2.
[36] Ibid, art. 4.4.

out to ensure that the data used by the stakeholders in making decision is sound and accurate. While the foregoing is laudable, the challenge of cybercrime and data theft are the critical areas that requires rethinking.

IV. ISSUES CONFRONTING THE EXTANT LEGAL REGIME IN NIGERIA

As earlier noted in Section 1 of this study, effective laws for the regulation of the health insurance services are critical in attaining the Basic Health Care needs of Nigerians. Nevertheless, this section of the study will demonstrate that there are challenges that requires urgent policy reforms. For the purpose of want of space, only some of these challenges are considered, beginning with lack of effective coordination and implementation mechanisms.

Lack of Coordinated Policies for Health Insurance

Public health insurance policies are structured statement of rules, guidelines and plan of action for the execution of objectives of health insurance, which is to provide enabling environment for quality access to health care services in Nigeria. Policies normally outline the implementation strategies and holistic plan of action for the health insurance ecosystem. In the context of health insurance, a well-coordinated policies is critical because of the intergovernmental responsibilities of the Federal, States and Local Governments in attaining the basic health needs of Nigerians and legal residents.[37]

Nevertheless, studies have shown the Nigeria's health care policies have witnessed policy somersault and largely politicalised thereby challenging its effective implementation and sustainability.[38] Thus, while one of the primary mandate of the Authority in sections 2 and 3 of the NHIA Act 2022 is to promote, integrate and regulate quality health insurance services in Nigeria, effective policy collaboration the States and other agencies of government and stakeholders is critical for this mandate to be attained. In other words, lack of effective policy collaboration as required by section 3(d) of the NHIA Act 2022 may led to inconsistency in, or non-commitment to

[37] NHIA Act 2022, s.13(1).
[38] Croke & Ogbuoji (n 1) 24.

policy directions of the NHIA Act. This may be as a result of misplacement of priorities, politics or even simply mischief by those responsible for implementing the policy objectives.

Similarly, this study argues that there seems to be lack of collaborative commitment, co-ordination and co-operation among the Federal Government, the 36 State Governments and the 774 Local Governments Councils (LGCs) regarding public health insurance in Nigeria. For instance, when the NHIS Act 1999 was established, it was discovered that eight years after, only three States government introduced state policies that embraced the NHIS.[39] Similarly, the NHIS made provisions for the participation of the informal sector, yet implementation was cumbersome because of lack collaborative policy directions.[40] It is submitted that the foregoing challenge is likely to be faced by the current legal regime of the NHIA Act 2022. As it is, one is not sure how long it will take all the 36 States and 774 LGCs to implement reforms introduced under the NHIA Act 2022.

Weak Links among Tiers of Government

The strength and success of the NHIA Act 2022 is determined by weakness or strength of involvement of each level of government. At each point of intergovernmental engagements, there are influences, forces and decisions which can make or mar the joint efforts in the promotion of the public health insurance services to health care needs of Nigerians and legal residents. Similarly, it requires deliberate policy interventions among the Federal Government, 36 States Governments and Federal Capital Territory, and the 774 LGCs. Nevertheless, the proper co-ordination between all these levels of government is very weak.

[39] Oluwakemi A. Ayanleye, "A Legal Appraisal of the National Health Insurance Scheme in Nigeria", UNIZIK Journal of Public and Private Law, vol. 5, 106 (2013).
[40] Ibid.

No doubt, the NHIA Act 2022 requires joint action plans and funding for health insurance services, yet it is sad to note that the relationship becomes weak at the stage of policy design and implementation. For instance, section 13(7) of the NHIA Act 2022 provides that the sources of funding the State health insurance and contributory scheme shall be from the Basic Health Care Provision Fund (Federal government) and other sources. Consequently, the State health insurance requires counterpart funding from the State government. Where a State is unable to provide the counterpart funds, the public health insurance policies will be abandoned, thereby denying the benefits of health insurance to Nigerian and residents in that State. In that regard, it is, therefore, submitted that the level of health insurance services coordination in Nigeria may better be described as 'paper exercise.'

Another area of weakness is absence of autonomous powers of the Local Government Councils in Nigeria. While the CFRN 1999 (as Amended) recognizes 774 Local Government Councils as independent tier of government, there is lack of actual autonomy in the real sense of government. This is evidently noticeable under the NHIA Act 2022 itself. That is, while the integration mandate of the Authority under NHIA Act 2022 requires collaboration with States to ensure that Nigerians have access to quality health care that meet national standards, the LGCs are specifically not mentioned. Consequently, it is submitted that the public health insurance services at the level of the LGCs may continue to operate as appendage of the State structure. This is anchored on section 7 (3) of the CFRN 1999, which empowers the House of Assembly of the State to establish the manner in which the LGCs can participate in the socio-economic affairs in the State. Thus, where a State government did not consider the implementation State health insurance scheme as a priority, the LGCs may not priorities it either. Unfortunately, the capacity of the LGCs to fund the provision of public health insurance services is constrained. This is largely because the State governors usually determine how the local governments funds are spend.

It is important to point that on July 11, 2024, the Supreme Court of Nigeria in a landmark case of *Attorney General of the Federation v Attorney General of Abia State and 35 others*,[41] granted financial autonomy to the LGCs by stating that:

(i) the retention and use of funds allocated to Local Governments from the Federation Account by State Governments is both unconstitutional and illegal and contravenes the principles intended to ensure that these funds benefit the Local Governments directly;

(ii) the FGN has the authority to make direct payments of allocations to Local Governments from the Federation Account, but these payments can also be made through State Governments, provided that the funds are fully and promptly transferred to the Local Governments;

(iii) under Section 7(1) of the Constitution, Local Governments are recognized as the third tier of Government and the leadership of Local Governments must be independent and democratically elected.

In the above regards, the Supreme Court directed the Federal Government of Nigeria to ensure that funds allocated to LGCs are paid directly into the accounts of democratically elected LGCs. While the Supreme Court decision is remarkable in granting financial autonomy to the LGCs in Nigeria, it is still uncertain and too early to conclude on how the judgment will impact on the funding of the public health insurance services by the LGCs. This takes us to the next challenge of inadequate funding.

Inadequate Funding Alternatives

It is established that the value of health insurance is rooted in the unforeseeable medical costs and expenses.[42] Besides, there is uncertainty in both incidents of disease and the efficacy of treatment as well as the cost to be expended by a patient. This is technically referred to as 'health risk'. In the context of insurance, the health risk is

[41] Suite No: SC/343/2024; [2024] LPELR-62576(SC) delivered on July 11th, 2024.
[42] Anyene, supra, (n 1).

pooled and redistributed across many insured patient and other health care stakeholders such as government and health care providers. Thus, on the part of the government, the NHIA Act 2022 is seen as an attempt by the Federal government to promote, regulate, integrate and collaborate with States through subsidised health insurance schemes to ensure that Nigerians have access to quality health care that meet health regulatory standards.[43]

Nevertheless, it is submitted that the foregoing objectives of the NHIA Act 2022 cannot be realised unless there is adequate funding. This is where the challenge lies. The Federal Government alone cannot provide sufficient funds that will ensure that the health insurance services in Nigeria operate optimally. There must be corresponding support and funding from both the 36 States and the 774 LGCs in Nigeria. However, studies carried out after the enactment of the NHIA Act 2022 have revealed that adequate funding is still a major challenge for health insurance outreach in Nigeria.[44]

Similarly, the NHIA Act 2022 provide for the sources of funding for the Federal Government alone, leaving the States and LGCs with the discretion on how to fund health insurance services within their jurisdiction. For instance, section 25(1) of the NHIA Act 2022 established the VGF, while section 25(2) provide that the sources for the VGF. This include the Basic Health Care Provision Fund; health insurance levy; special intervention fund; returns on investment of the VGF; and grants, donations, gift and other voluntary contributions.

At the State government level, the Lagos State government, for instance, enacted the Lagos State Health Insurance Scheme (LSHIS) Law, no. 32, (Law) 2015.[45] Section 5 of the LSHIS Law established the Lagos State Health Insurance Scheme to ensure

[43] For instance, see NHIA Act 2024, ss. 2 and 3.
[44] Tope M. Ipinnimo *et al*, "The Nigerian National Health Insurance Authority Act and its Implications towards Achieving Universal Health Coverage", Nigerian Postgraduate Med. J., vol. 29, 281. (2022).
[45] Available in Cap L32, Laws of Lagos State 2015.

good, affordable, and quality health care services for residents of Lagos State.[46] The Law makes it mandatory for all residents in Lagos State to register under the LSHS. Also, section 27(1) of the law established Lagos State Health Fund with sources of the Funds to include: initial take-off grant; formal and informal sector contributions; equity funds; NHIS and HMOs funds and so forth.

With the enactment of the NHIA Act 2022, the Lagos State government responded on the 16th July 2024, by issuing an Executive Order titled: *An Order for Compulsory Subscription to Social Health Insurance Scheme by all Residents and Workers of Lagos State*. Under this Executive Order, the vulnerable residents are to be profiled and enrolled under equity funds to be administered by the Lagos State Government.

Although the foregoing Federal and State governments legislative intervention are plausible, it is submitted that the actual funding is in itself a mirage. The sources funds still remains a myth not a reality. The expected sources of funds may not come at all, thereby threatening the effective operation of the health insurance service delivery for the VG in Nigeria. Besides, Nigeria has an estimated population of 206 million, but only 3% of the GDP is devoted to the health care sector. Besides, for the first time, it was the 2024 annual federal budget that allocated 15% of the 2024 budget to the health sector. In any case, there is a challenge of funding the 2024 budget itself.

Consequently, it is submitted that although the responsibility to fund public health insurance is vested on all levels of government, the nature of the fiscal federalism we operate in Nigeria makes it possible for most of the State and Local Governments to depend on the federal government for the funding of their public health insurance schemes. On its part, the federal government depends majorly on the income from the oil and gas sector to fund its projects, including public health insurance subsidy. Whenever the oil and gas sector is not doing well, it automatically affects the funding

[46] Ibid, s.20.

of other sectors, such as, public health insurance services. Even though the federal government is diversifying the economy under the present led administration of President Bola Almed Tinubu, there is still a lot to be done, particularly at the States and Local government levels.

Unhealthy Dichotomy of Health Insurance Intermediation

Another challenge is unhealthy dichotomy and regulatory bias between conventional insurance agents and brokers on the one hand, and on the other hand, the intermediary role and duties of the Health Management Organisations (HMOs), Third Party Administrators (TPAs), Mutual Health Organisations (MHAs), and Health Care Providers (HCPs). Broadly speaking, insurance intermediary may be defined as an individual or business firm which stands in between the buyer and the seller of insurance.[47] They are essentially an umbrella name for middle market players who match the insurance needs of the policyholders with those insurers. These players are many and include: insurance agents, insurance brokers, loss adjusters, lawyers, accountants, auditors and many other professional bodies. In many insurance markets, intermediaries play an important role as they serve as interface or distribution channels for insurance services.[48] Their good conduct is therefore essential to protect consumers and promote confidence in insurance markets.[49]

The NHIA Act 2022 as well as the NHIA Guidelines 2023 provide for the registration of HMOs, TPAs, MHAs, HCPs and other middle player stakeholders.[50] Accordingly, the HMOs, TPAa, MHAs, and HCPs function as middle players between the NHIA (insurer) and the contributor or enrollee to the scheme (insured). In fact, sections 34(1) (b) of the NHIA Act 2022 provides that the HMOs shall collect contribution (premium), while under section 34(4) the MHAs are authorized to negotiate and purchase health insurance services on behalf of their members. The foregoing are similar with the duties of insurance agents and insurance

[47] John Cummins and Neil Doherty, "Economies of Insurance Intermediaries", Journal of Risk and Insurance, vol. 73 (3), 359, (2006).
[48] Simon V. Akaayar, "Tunnel Vision Problem with the Legal Regime for Insurance Intermediaries in Nigeria: A Case for Reform", Port Harcourt Journal of Business Law vol. 2, 46. (2016).
[49] Ibid.
[50] NHIA Act 2022, s.3.

brokers under the conventional insurance practices as enshrined in sections 34 and 35 of the Nigeria's Insurance Act 2003. But the issue of whether HMOs, TPAs, MHAs and HCPs qualifies as insurance intermediaries remains uncertain under the NHIA Act 2022. Instead, section 3(r) of the NHIA Act 2022 empowers the Authority to accredit insurance brokers that are desirous of participating in health insurance schemes.

Closely related to the controversy above is the non-consideration of the rate of illiteracy in regulating the duties of the insurance intermediaries, particularly with reference to the informal sector participants. This is important to the informal sector participants may be attracted to enroll for health insurance cover if they truly understand the benefits as well as the applicable terms and conditions. It is, therefore, submitted that the NHIA Act 2022 as well as its Guidelines 2023 should be reformed by taking into account the rate of illiteracy among informal sector participants in Nigeria.

A. *'No Premium, No Cover' Syndrome*

Another shortcoming of the NHIA Act 2022 is that, the provision for payment of premium in advance as condition precedent participating in the national health insurance services fails to take into account the income realities of some of the enrolees in the informal sector such as, SMEs and low-income earners. As noted by this researcher elsewhere,[51] in the contract of insurance, premium is the foundation upon which the rights of the insured to be indemnified or compensated is built. It is a consideration given by the insured in return for the insurer's undertaking to compensate or indemnify the insured in a manner agreed upon the happening of a specified event. In relation to national health insurance, section 59 of the NHIA Act 2022 defines premium as contribution payable for health coverage.[52] Premium is central to the health insurance schemes because part of it is statutorily deducted by the Authority and set aside as operational costs of the Authority, while the remaining part is paid to HCPs for the health care services that is rendered to the enrollee or insured.[53]

[51] Simon V. Akaayar, "Evaluating the Legal Regime for the Payment of Insurance Premium in Nigeria: A Case for flexible Payment System for the SMEs", Int'l Journal of Law & Policy Review 9(1), 149. (2020).
[52] Accordingly, in this study, premium and contributions will be used interchangeably to mean the same.
[53] NHIA Act 2020, s.59.

Under the conventional insurance practice in Nigeria, payment of insurance premium is a condition precedent to a valid contract of insurance.[54] Accordingly, section 50(1) of the Insurance Act 2003 provides that '[t]he receipt of insurance premium shall be a condition precedent to a valid contract of insurance and there shall be no cover in respect of an insurance risk, unless the premium is paid in advance.'

The above quoted section 50 was interpreted by the Supreme Court in the case of *Jombo United Co Ltd v Leadway Assurance Co Ltd*,[55] where Onnoghen JSC held that the effect of section 50(1) is that all the rights created by contract of insurance are suspended until the agreed premium is paid in advance to the insurer.[56]

It is submitted that although, the NHIA Act 2022 did not expressly refer to section 50(1) of the Insurance Act 2003, it would appear that payment of contribution or premium is a condition precedent for enrollee (insured) to access the benefit package provided therein. This is informed by section 59 of the NHIA Act 2022, which defines enrollee as 'a person who has enrolled with the Authority and who, <u>being up to date with payment of premium</u>, is entitled to access health care in accordance with the benefit package.'[57]

The implication of the use of the phrase '…being up to date with payment of premium…' is that, the rights of the enrolee to have access to the health care needs will be suspended until the agreed contribution is fully paid in advance. Consequently, if the Supreme Court is called upon to interpret section 59 of the NHIA Act 2023, it may likely follow the precedent in the case *Jombo United Co Ltd v Leadway Assurance Co Ltd*,[58] to the effect that the actual payment of contribution is condition precedent to a valid contract of health insurance in Nigeria.

It is further submitted that the provisions of section 59 of the NHIA Act 2022 seems to adopt 'one-size-fit-all approach' with respect of payment of health insurance premium in Nigeria.

[54] For further readings, see Akaayar, supra.
[55] [2016] 15 NWLR (1536) 363 (SC) [Onnoghen J.S.C.].
[56] See also *Corporate Ideal Insurance Ltd v Ajaokuta Steel Co Ltd* [2014] NWLR (Pt. 1405) 165 (SC).
[57] Underlined mine for emphasis only.
[58] [2016] 15 NWLR (1536) 363 (SC).

This is largely because section 14 of the NHIA Act 2022 makes it mandatory for every person resident in Nigeria to participate in the health insurance schemes. The residents include informal sector employees and all other residents in Nigeria.[59] While it is acknowledged that participation in the insurance market is not without cost, it is also a reality that income and resources of the market participant is not homogenous.

V. COMPARATIVE LEGAL AND POLICY LESSONS FROM AUSTRALIA

In Australia, the health insurance sector is regulated by a web of legislations including: the Health Insurance Act 1973 (as amended in 2023); Private Health Insurance Act 2007; Human Services (Medicare) Act 1973; Insurance Contract Act 1984; Health Insurance Regulation Act 2018; and other related laws, regulations and policies. The detail analysis of these legal regime is beyond the scope of this study. For the present purpose emphasis is on some of the provisions and policies relating to public health insurance coverage in Australia, and particularly those legal and policy developments that could serve as lessons for the Nigeria's public health insurance schemes.

Australia is one of the leading countries with top health insurance system in the world.[60] No doubt, this is made possible by the existing legal regime which provide the enabling environment for the public health insurance to thrive. The Australia's Health Insurance Act 1973 (as amended in 2023), Human Services (Medicare) Act 1973 and Health Insurance Regulation Act 2018 establishes a mandatory national health insurance (Medicare) that provide insurance coverage to all citizens and permanent residents. Accordingly, section 3 of the Health Insurance Act 1973 defines residents widely to include oversea representatives as well as refugees from countries with reciprocal arrangements with Australia. Medicare programme did not only subsidise the cost of most medical and allied health services, but most importantly provide free hospital services for public patients across Australia through Health Care Agreements with the States.[61] Also, it subsidises costs of hospital services for private patients and provide benefits for out-of-hospital medical services as well as other medical benefits covered by section 8 of the Health Insurance Act 1973.

[59] NHIA Act 20222, s.14(2) (b) (c).
[60] Angeles, Grosland, and Hensher, supra, (n 9).
[61] Nandidi Kaushik, "The Public Law Challenges of Complex Legislation: A Case Study of Medicare", UNSW Law Journal Student Series vol..8, 1 at p.10. (2021)

Nevertheless, section 14(1) of the Health Insurance Act 1973 limits the benefits to only the medical expenses actually incurred in respect of the professional services. This is in line with common law doctrine of indemnity in contract of insurance, which was interpreted in *Castellion v Preston*,[62] where it was held, and rightly too, that the insured cannot be compensated more than the loss incurred. The only statutory proviso is that section 14(1) shall no apply where there is a private agreement between a private insurer and another person, or the amount payable for the professional services is not determined by fee for services.[63] The Chief Executive Medicare is responsible for paying the medical benefits on behalf of the commonwealth.[64] In any case, the medical benefits may be assigned to another person, provided that section 20A of the Health Insurance Act 1973 (as amended) is complied with.[65]

In order to integrate national health insurance in Australia and extend to rural areas, taking into account the needs of the communities, families and individuals, section 79AC of the Health Insurance Act 1973 (as amended) establishes the office of the National Rural Health Commissioner. According to section 79AD, the functions of the Rural Health Commissioners include providing advice to the Rural Health Minister about matters relating to health in rural, regional or remote areas including in relation to:

(a) developing, aligning, and implementing commonwealth strategies, priorities and measures so as to improve health outcomes in those areas;[66]

(b) developing and improving innovative and integrated approaches to the delivery of health services in those areas so as to improve the quality and sustainability of, and access to, health services in those areas;[67]

(c) strengthening and promoting regionally-based, patient-centred approaches to the delivery of health services in those areas that take into account the needs of the communities, families and individuals in those areas.[68]

[62] [1883]1 QBD 380 (CA).
[63] Health Insurance Act 1973 (as amended), s.14(2).
[64] Ibid, s. 20
[65] Note that section 127 of the Health Insurance Act 1973 requires that a copy of the assignment most be given to the assignor.
[66] Health Insurance Act 1973 (as amended), s.79(1) (i).
[67] Ibid, s.79(1) (ii).

The implication of the foregoing review of the legal and policy developments in Australia, though brief, reveals some striking lessons. The foremost is that like Nigeria and other countries, the public health insurance in Australia is motivated by the quest for universal health coverage. Also, it seeks to promote equity of both access to health care services and provision of subsidies for the financing medical expenses. The Medicare and Pharmaceutical Benefits Scheme (PBS) are the two universal health schemes in Australia.[69] Under the Medicare scheme, all eligible medical patients are entitle to free care in public hospitals. It also subsidises the cost of medical treatments. Patients can also elect to be treated privately in public hospitals or private hospitals. Medicare is financed by public tax and medical levy, which is set at 1.5% of taxable income.[70] The Medical Benefit Schedule (MBS) establishes fees schedule for all services and procedures. Patients are, therefore, reimbursed only for the amount of subsidy set by government in the MBS. Public patient receive free hospital care. In the case of private patients, the subsidy is equal to 85% of the MBS for out-of-hospital treatments, and 75% of the MBS for in-hospital medical treatments.[71] Although the responsibility for promoting health care in the Australia is divided among the Commonwealth, State and Territory, the State is supported through Commonwealth funds are transferred to States by way of prospective block grants, which are negotiated every five years in Health Care Agreements.[72]

Above all, the Australia's health care system is based on mixed economies of insurance and provision by promoting a private-sector health insurance financing and delivery system alternative to Medicare.[73] The value of the mixed health insurance system is succinctly described by Colombo and Tapay thus:

> *Availability of a public and a private alternative, both in the financing and in the delivery of care, is seen as a vehicle for improving individuals' well-being by offering greater individual choice of provider and care options, and faster care*

[68] Ibid, s.79(1) (iv).
[69] Francesca Colombo and Nicole Tapay, "Private Health Insurance in Australia: A Case Study", OECD Health Working Papers no.8, 12, (2003).
[70] Ibid.
[71] Ibid.
[72] Colombo & Tapay, supra, (n 75)
[73] Ibid, 38.

> *for elective treatments plagued by long waiting lists in the public system. A mixed health system is also promoted in order to help maintaining a sustainable public health sector, by reducing cost pressures on public hospitals.*[74]

Although the foregoing is relatively brief, the policy development and experience from Australia's national health insurance system portends influential lessons for policy makers in Nigeria in several ways, some of which are demonstrated in the suggestions considered next.

VI. REFORM SUGGESTIONS FOR NIGERIA

It is not in doubt that the Nigeria's national health insurance systems requires policy reforms. This study analysed the policy experience from Australia and extract some lessons that policy makers may filter and adopt in line with public health insurance realities in Nigeria. Foremost, while the mandate of the Authority under NHIA Act 2022 is the integration of health insurance services, there is need for the introduction reform measures that will ensure the integration works in reality. In Australia, for instance, the legal regime for public health insurance went as far as making provisions on how the integration may be realised. Accordingly, section 79AC of the Health Insurance Act 1973 (as amended) established the office of National Rural Commissioners, whose duty as seen above, is to among other things, develop and promote innovation and integrated approaches to the delivery of health insurance services to rural communities, families and individuals. Besides, the services are to take into account the health needs of these residents. It is therefore, submitted that, Nigeria may follow the legal architecture in Australia. That is, the NHIA Act 2022 should be reform by establishing a dedicated office or Department within the NHIA that will be responsible for developing and promoting the integration of health insurance services among the Federal, States and Local Governments in Nigeria.

Similarly, it is recommended that the enrollment procedure under the NHIA Act 2022 should be relaxed for the purpose of informal sector participants, the vulnerable persons, and indigent. This is important because section 14(1) of the NHIA Act 2022 contains a generic

[74] Ibid.

provision that every person resident in Nigeria shall be required to obtain health insurance. The residents under the NHIA Act 2022 include the informal sector employees. In addition, section 26 (2) of the NHIA Act 2022 provide for the payment of subsidy for health insurance coverage of vulnerable persons, and for the payment of insurance premium for indigents. However, unlike the situation in Australia, the enrollment procedure for these special group of residents is ignored by the NHIA Act 2022. Besides, enrolment may be without cost which the informal sector participant may not afford. Ultimately, the law seems to be wrongly treating formal and informal enrollees the same. It is, therefore, submitted the NHIA should developed new guidelines that will relax the enrollment procedure for the informal enrollees as well as the vulnerable group and indigent. The proposed enrollment procedure for informal enrollees should be simple, affordable and patient-centred.

It is also suggested that the Federal Government in conjunction with the State Government should introduce Special Pharmaceutical Benefit Scheme for some rural communities in Nigeria. In Australia, for instance, Aboriginal and Torres Strait Islander had difficulties in having access to the public health services. In response, Australia government established Aboriginal Community Controlled Health Organisation in 1971. In addition, the Australian government have introduced other policy strategies to improve access of Aboriginal and Torres Strait Island population by establishing a Special Pharmaceutical Benefit Scheme (SPBS). The SPBS had agreement with community pharmacies and wholesalers under which, there is mandatory 12.5% price reduction for the pharmaceuticals, while the discount is paid by the Commonwealth. This reform measure is hereby recommended for Nigeria. This is especially for the informal communities that may find difficult to access the national health insurance services in Nigeria.

Furthermore, the Authority and the State's Health Insurance Scheme should introduce reforms that will strengthen equity contributions to health insurance funds by all the 36 States and 774 LGCs in Nigeria. In particular, the proposed reform should introduce alternative source of founding public health insurance in Nigeria beyond the present sources. This is critical because attaining universal health care services requires government support for private health insurance as well. In Australia, for instance, the funds for Medicare are extended to private health insurance sector by way of subsidy. By so doing, the pressure on

public health care facilities is not only reduced, by mostly it helps in health insurance outreach. Similarly, Nigeria may consider adopting the prospective block grants, which shall be negotiated every five years in Health Care Agreements, as it is obtainable in Australia.

Similarly, the NHIA Act 2022 should reform in such a manner that the common law and statutory duties of conventional insurance intermediaries will also be applicable to the HMOs, TPAs, MHAs, and HCPs. This is particularly with respect to the duties of advising the enrollee on the suitability of the coverage package, rather than focusing on rent seeking as it is presently obtainable in practice. In addition, the NHIA Guidelines 2023 should be reformed to specifically introduce relaxed guidelines for the payment of insurance premium by the informal sector enrollees, such as SMEs and low-income earners. The proposed reform should in such a manner that will take into account the fluctuating or seasonal nature of income realities of the informal sector enrollees.

Also, the Authority, in conjunction with the State Health Insurance Schemes should introduce unified guidelines that will streamline health insurance objectives in Nigeria. Also, the implementation of the landmark decision of the Supreme Court in the case of *Attorney-General of the Federation v Attorney-General of Abia State & 35 others*,[75] on the financial autonomy of the Local Government Councils should be extended to direct funding of the health insurance services in Nigeria rather leaving it entirely under the absolute powers of governors of the States.

Above all, the reform should ensure that health insurance regulation in Nigeria is effective.[76] In the context of this work, effective regulation refers to the provision of enabling legal and regulatory environment for the health insurance market participant to derive optimal benefit(s). It further facilitates the overall insurance and financial sector growth in the country. Consequently, an effective regulation requires that health insurance should not be confined to the regulatory intervention alone but also aims at the success of the market. As Sheehy and Feaver rightly acknowledged, a regulatory system, whether created by a public

[75] Suite No: SC/343/2024; [2024] LPELR-62576(SC) delivered on July 11th, 2024.
[76] Robert Baldwin, Martin Cave, and Martin Lodge, *Understanding Regulation: Theory, Strategy, and Practice*, 3, (Oxford University Press, 2011).

legislative body or by private charter must be effective in order to be successful.[77] While the degree of success of effective regulation may differ, a successful regulatory system should be coherent regulatory system is that which "operates effectively within itself, has its own structure of centres and linkages, its own drivers, checks and balances." [78]

Above all, an effective regulation must possess the attributes of sectoral dialogue and sector capacity.[79] Thus, the regulation of health insurance would be ineffective if it does not take into consideration the concerns of other related industries and sectors. This include the National Insurance Commission and the Nigerian Council of Registered Insurance Brokers in Nigeria. This necessitates a trilateral dialogue between the regulators, the regulated and the potential public beneficiary regulation,[80] as well as established mechanism for this relationship to be sustained. In essence, the public health insurance market participants need to appreciate the role of the Authority and 36 States regulator(s) as well. In addition, other allied agencies such as the 36 States regulators should update their laws and introduce complementary regulations. The interrelations need to be based on the mutual objective of achieving the public health insurance objectives. That is, attain Universal Health Coverage through the provision of enable environment for Nigerians and residents to have access to quality and affordable health care services in Nigeria. Besides, regulation should not be seen as the end in itself but the means of achieving the aim of health insurance coverage in Nigeria.

VII. CONCLUSION

This study examined the legal regime for public health insurance the Nigeria, particularly the National Health Insurance Authority (NHIA) Act 2022. The study finds that the NHIA Act 2022 introduced laudable innovations into the Nigeria's public health insurance ecosystem. These innovations include: the enactment of the "Authority" as the regulator of NHIA Act 2022; a clear defined tripartite powers of the Authority, which is Promotion, Regulation and Integration; reinforcement of mandatory health insurance participation in Nigeria;

[77] Benedict Sheehy and Donald Feaver, "Designing Effective Regulation: A Normative Theory", UNSW Law Journal 392, vol.38 (1) (2015).
[78] Ibid.
[79] Stavros Thomadakis, "What makes good Regulation?", IFAC Council Seminar Papers 2 (2007).
[80] Ibid.

establishment of health insurance funds for vulnerable group; and provision for the establishment of ICT Infrastructure and Capacity. Above all, the Authority is required to collaborate with the State's Health Insurance Schemes to ensure that Nigerians have access to quality health care that meets national health regulatory standard.

Nevertheless, the study also demonstrated in Part III that there are fundamental legal and policy challenges confronting health insurance policy in Nigeria. In view of these challenges and the quest for effective regulation of public health insurance in Nigeria, this study examined the legal and policy lessons from one of the countries with successful public health insurance – Australia. In particular, some legal and policy lessons were extracted and recommended as reform measures for policy makers in Nigeria.

It is hereby submitted that public health insurance policy makers should introduce appropriate reforms measures to ensure effective regulation of public health insurance in Nigeria. It is the strong contention of this researcher that it is through effective regulation that the Nigeria's goal of attaining Universal Health Coverage may be achieved. That is by effectively guiding the expansion of public insurance coverage and promotion of access to quality and affordable health care services in Nigeria. The Federal government through the National Health Insurance Authority, which is the primary regulator of the NHIS in Nigeria, should pioneer the reform suggested in this study.