205100 - Difference between Cooperative Insurance and Commercial Insurance

the question

I am an employee in a government-run company. My question is whether the health insurance offered by my company is permissible. It can be summed up in the following two points:

1. It is a financial fund that is called “the health insurance fund”. It is supervised by a committee that pays compensation to employees after they submit the medical prescription showing the amount paid by the employee to the doctor.

2. The income for the fund comes from two sources:

(i) the company’s contribution to the fund, which represents approximately 80% of the fund’s income and is taken from the annual profits of the company;

(ii) contributions in the form of deductions from employees’ salaries, which represents approximately 20% of the fund’s income. The amount of 1000 Dinars (approximately equivalent to 3 Riyals) is deducted from the salary of an unmarried worker, and 3000 Dinars is deducted from the salary of a married worker, after submitting an application to the supervising committee of the fund to include his family in his health insurance.

3. Joining the health insurance program is voluntary for both unmarried and married employees.

4. Compensation paid to the employee may be greater than the value of the monthly subscription fee; the payout to employees during one month may vary from one person to another, depending on whether he sees a doctor, because not all people fall sick in the same month. Hence some may benefit from compensation whilst others do not.

5. In the event that an employee does not benefit from this compensation, the amount deducted from his salary is not refundable, either at the end of the year or at retirement.

6. Any surplus at the end of the year is carried forward to the following year and remains in the fund, and the new annual income is added to it.

7. The company does not deal with any insurance company.

Is this health insurance regarded as cooperative insurance and is it permissible to subscribe to it?

Summary of answer

The most important difference between cooperative insurance and commercial insurance is that the money deducted for cooperative insurance is not owned by the committee that is administering the fund; rather it remains a donation that is to be spent on whoever meets the conditions. In contrast, the administrators of commercial health insurance funds have ownership of the subscriptions and deductibles paid by the subscribers, and that is included in their personal accounts, in return for the administration committee being committed to treat anyone who meets the conditions.

Detailed answer

Praise be to Allah.

Difference between cooperative insurance and commercial insurance

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In contrast, the administrators of commercial health insurance funds have ownership of the subscriptions and deductibles paid by the subscribers, and that is included in their personal accounts, in return for the administration committee being committed to treat anyone who meets the conditions. There is a big difference between the two types.

- The first type is cooperative and offers mutual support, and there is a Hadith that supports it in principle. It was narrated that Abu Musa (may Allah be pleased with him) said: The Prophet (blessings and peace of Allah be upon him) said: “If the Ash`aris run short of provisions during a campaign, or they run short of food for their families in Madinah, they gather whatever they have in a single cloth and share it out equally amongst themselves. They belong to me and I belong to them.” (Narrated by Al-Bukhari, 2486)

Al-Bukhari included it in a chapter entitled: “Chapter on sharing food and other resources, and how to divide that which may be weighed or measured handful by handful (without weighing it or measuring it), because the Muslims did not see anything wrong with sharing out provisions when traveling so that one could come and have some, and another could come and have some…”

- As for the second type (commercial insurance), it is a kind of gambling; all contemporary Fiqh councils are agreed that it is forbidden.

Differences between lawful and forbidden cooperative health insurance

There are other essential differences between cooperative health insurance to which it is permissible to subscribe, and that forbidden type of insurance which is based on gambling. It is essential to investigate these differences before issuing a fatwa ruling that any specific case is lawful or prohibited.

It says in Al-Ma`ayir Ash-Shar‘iyyah (p. 372-373):

The reason why cooperative insurance is permissible and commercial insurance is forbidden is the following essential differences:

- Traditional (commercial) insurance is a contract offering something in return for financial compensation; it is aimed at making a profit from the insurance itself, therefore it is subject to the same rulings as other financial transactions, whereby it may be affected by ambiguity. The ruling on traditional insurance is that it is forbidden according to Shari`ah. As for cooperative insurance, it is a commitment to donate and is not affected by ambiguity.

- The company that manages Islamic insurance [or an insurance fund in some cases, such as that mentioned in this question] is acting as an agent when drawing up the insurance contract. In contrast, the company is a main party in the case of commercial insurance and draws up contracts in its own name.
- In the case of commercial insurance , the company has ownership of the payments made in return for the commitment to pay out money in the case of illness. In the case of the Islamic insurance company, it does not have ownership of these payments, because these payments become the property of the fund .
- Whatever is left of the payments and their returns – after payment of expenses and compensation – remains in the ownership of the policy holders, and this is the surplus which is to be distributed to them. But this is not possible in the case of commercial insurance, because the payments become the property of the company by virtue of the contract and receipt of the payments. In fact that money is regarded as income and profit in the case of commercial insurance.
- Returns on the investment of monthly subscriptions, after deducting a percentage of the profit for the company (which is investing the fund), go back to the policyholders in the case of Islamic insurance, and they go back to the company itself in the case of commercial insurance.
- Islamic insurance is aimed at creating cooperation between different members of society; it is not aimed at making a profit by selling the insurance. In contrast, commercial insurance is aimed at making a profit from the insurance itself.
- In the case of Islamic insurance, the company's profits result from investing its money and its share of the profit in Mudarabah investments, because it is managing the funds and investments, and the fund itself is the owner of the wealth.
- The one who subscribes and the one who is giving the insurance is the same in the case of Islamic insurance, even though they may be different in practical terms. In the case of commercial insurance, they are two completely different entities.
- In the case of Islamic insurance, the company is bound by the rulings of Shari`ah and the Fatwas of its Shari`ah committee. In the case of commercial insurance, it is not bound by the

rulings of Shari`ah. End quote.

We know that many of these differences are not relevant when speaking about the fund mentioned in the question, but we have quoted them here so that the reader may understand the real and important differences between cooperative insurance which is permissible, and commercial insurance which is forbidden, and thus will be able to weigh up and judge other types of governmental health insurance funds.

How to issue a Fatwa regarding funds of insurance

In order to issue a precise Fatwa concerning your fund and to try to help you to follow the Shar`i guidelines on cooperative insurance, it is essential that you send us the official documents which regulate the work of the fund, and the contracts that subscribers have to sign, so that we can study them and determine the ruling on them. Although we think it most likely that the way your fund is operated is sound, in sha Allah, we cannot be certain of the ruling before examining the official rules and regulations governing the fund, and the application forms for joining it.

The book Al-Ma`ayir Ash-Shar`iyyah stipulates a number of basic matters which must be stated in the articles of association of cooperative funds, as it says (p. 364):

“Islamic insurance is an agreement among people who are exposed to a particular danger to deal with any harm resulting from this danger, by paying subscriptions in the form of a commitment to donate; from that a fund is formed that is a separate, financially independent, virtual entity, from which compensation is paid for harm that may befall one of the subscribers because of some danger against which he was insured, in accordance with the bylaws and contracts. The administration of this fund is handled by a committee chosen from among the policyholders or by a limited liability company in return for a fee paid to administer the insurance and invest the money in the fund.

As for traditional insurance, it is a financial transaction that is aimed at making profits from the insurance itself, subject to the rulings on financial transactions that may be affected by ambiguity; the ruling on traditional insurance is that it is forbidden according to Shari`ah (because of the

ambiguity it involves).

Principles of Islamic insurance

Islamic insurance is based upon the following Shar`i guidelines and principles, which must be stated clearly in the company's articles of association:

1. The commitment to donate, whereby the policyholder donates his monthly subscriptions and the returns on them to the fund, in order to pay compensation. He may also commit himself to pay his share towards covering any deficit, in accordance with the bylaws.
2. The company that is running the insurance fund should have two separate accounts: one which has to do with the company itself and its rights and commitments, and another which has to do with the fund and the rights and commitments of the policyholders.
3. The company is acting as an agent when administering the fund and when investing what is owned by the fund.
4. The insurance account has to do with whatever is owned by the fund and the returns on its investments, as well as other commitments.
5. The bylaws may include a clause dealing with disposal of any surplus according to what serves the interests of the policyholders, provided that the company that is administering the fund does not get any of this surplus.
6. In the event of liquidation, all the money in the fund and any surplus accumulated is to be spent on charitable causes.
7. It is preferred that the policyholders should administer the insurance fund.
8. The company is committed to abide by all rulings and principles of Islamic Shari`ah in all its activities and investments, and in particular is not to insure anything that is forbidden.
9. A Shari`ah watchdog committee should be appointed whose fatwas will be binding upon the company."

All of these matters should be paid attention to in the bylaws that regulate the activities of the insurance fund, especially those that invest these subscriptions of the people insured for the benefit of the fund. It is essential to ensure that these principles are present in the bylaws and

articles of association governing the insurance.

And Allah knows best.