

AN ANALYSIS OF THE NATIONAL HEALTH INSURANCE AUTHORITY ACT 2022: IMPLICATIONS FOR THE AGEING POPULATION IN NIGERIA

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Abstract:

The neglect of the ageing population in the provision of healthcare services has called for a change in how health services are implemented in Nigeria. Nigeria no doubt has a National Health Act 2014. However, its effectiveness in providing healthcare for the ageing population requires exploration. This study aims to review the provisions of the National Health Insurance Authority Act 2022 regarding the ageing population in sustainable healthcare delivery. The study adopted the secondary method of data in its literature review. The ageing population represents 3.23% of the entire population of Nigeria. The functionalist theory of Talcott Parson was used to explain the essence of sustainable healthcare services and the place of the ageing population. This study found that there are no clear-cut provisions for the ageing population. The study, therefore, recommends the amendments of the Constitution of the Federal Republic of Nigeria (1999) (As Amended) and other subsidiary legislations to provide adequate provisions for the well-being of the ageing population. The study further recommends enacting the Elderly Care Act to cater to the ageing population at the national and sub-national levels of government.

Keywords: Ageing, Health policy, Health Insurance Act, Population, Nigeria Constitution

Introduction

Ageing is a process that necessitates a series of physical, psychological, and social advancement adaptations that one will struggle with, hence the need for assistance from others later in life. Ageing comes with developmental challenges such as frailty, chronic diseases, seclusion, and neglect. Ageing is the process of growing old. It is the accumulation of changes in person over time. Growing old is a natural

and irreversible phenomenon with challenges and opportunities. The World Health Organisation (WHO) (2021) defines an older adult as someone aged 65 years and older. Old age is the closing period in one's lifespan.

According to the United Nations Department of Economic and Social Affairs (UNDESA, 2015), the number of older persons is growing faster than the number of people in all younger age groups. By 2030, the number of people 60 and older will increase by 56 percent, from 962 million (2017) to 1.4 billion (2030). By 2050, more people will be 60 years or older than adolescents and youth aged 10-24 (2.1billion versus 2.0billion). Africa is experiencing the highest increase in the ageing population. This projection shows that Sub-Saharan Africa has the least number of older persons. Globally, an enhanced health system, improved education, and a striving economy have influenced how people live longer. No doubt, an ageing population poses many social and economic issues for older persons, their families, governments, and societies, but the proper government framework to provide succor for the aging population will address some of these challenges in time. As one of the countries in Sub-Saharan Africa, Nigeria is also witnessing an increase in its older persons' population. Nigerians aged 60 years and above makeup 3.1% or 5.9 million of the total projected population of 191 million, translating to an average of 600,000 during the 5 years (2012 – 2017) (National Bureau of Statistics, 2016). In 2012, Nigeria had an estimated 8.8 million persons aged 60. In 2020, the number was projected to be 9.4million, which is expected to rise to 25.3million by 2050 (UNDESA, 2020).

Today, older persons are faced with the challenges of socio-economic hardship due to lack of prompt and regular payment of their retirement benefits, poverty, especially feminisation of poverty, urbanisation, the weakened traditional extended family structure, and the absence of social safety nets for the vulnerable members of the aging population. Consequently, access to healthcare for older adults remains turbulent, especially with the non-payment of pensions and gratuities, lack of clear-cut health insurance policy, lack of Medicare services, unemployment status of their children, and adoption of neoliberal economic policies in Nigeria. The ageing population has contributed immensely to the nation's development during its productive years. Still, instead of enjoying their benefits during this period of their lives, it has been a bitter moment for their human hood. Inadequacies of supporting health facilities, a vicious cycle of poverty, unpaid retirement benefits, decreased government spending on healthcare delivery, insecurity, and uncertainty in health policy have neglected the right to life of the ageing population.

The Nigeria 1999 Constitution and its provision on the healthcare system

This paper explores the 1999 Constitution (As Amended) concerning the clauses on healthcare services and, specifically, its implications for the ageing population. The 1999 Constitution provides in section 14(2b) that the citizens' welfare and security shall be the government's primary role. Furthermore, section 17(3c) (3d) made

adequate provisions for the welfare of the citizens in terms of the overall policy framework. In particular, it says: *'the health, safety, and welfare of all persons in employment are safeguarded and not endangered or abused;'* and *'there are adequate medical and health facilities for all persons.'* Though derived from the Fundamental Objectives and Directive Principles of State Policy of the 1999 Constitution, these provisions have not been implemented as required. Its limitations are in the non-justifiable nature of section 6(6)(c) of the Constitution. In particular, this section states:

Shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision conforms with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution.

A further perusal of the 68 Items on the Exclusive Legislative List of Second Schedule (Legislative Powers) Part 1 of the 1999 Constitution did not mention health services or the ageing population. The only near provision is Item 60 of the Exclusive Legislative List, which 'provides for establishing and regulating authorities for the Federation or any part thereof to promote and enforce the observance of the Fundamental Principles and Directive State Policy contained in the Constitution.' Similarly, the Concurrent Legislative List does not make provisions for healthcare services. It is only in the Fourth Schedule of the Constitution that healthcare services were mentioned. The Fourth Schedule supports the Local Government Council's involvement in providing healthcare services. Section 2(c) states that 'the provision and maintenance of health services is the responsibility of the local government council in participation in the Government of a State.'

It is the observation of this paper that there are no direct constitutional provisions for the healthcare needs of the ageing population. Even where there is a provision in the Fourth Schedule of the Constitution, the provision is not explicit enough to cater for the ageing population. Rather, it only provides for the participation of the local government council in health and human services at the primary healthcare level. A look at the operations of the local government councils shows that there is no special unit or department for the ageing population or aged or older adults in Nigeria. The semblance of a human health service is the social welfare unit, which is mainly saddled with the issues of abandoned babies, gender base domestic violence, and orphanage homes.

Therefore, this paper intends to analyse the National Health Insurance Authority Act 2022, one of the major policy thrusts of the National Health Care Act 2014, concerning the care needs of the ageing population and offer possible

amendments to ameliorate the needs of older people in Nigeria. It intends to explore whether or not the provisions of the NHIA Act 2022 have significant provisions for the ageing population, particularly the provisions of the Act in addressing the policy barriers preventing access to health care as the country tries to improve its health system.

The Nigeria National Health Insurance Authority Act 2022

One of the major policy thrusts of the National Health Care Act 2014 is the strive to achieve Universal Health Coverage (UHC) for Nigerians and legal residents through access to quality healthcare services. The National Health Insurance Authority Act 2022, enacted by the National Assembly (NASS) and signed into law on the 19th day of May 2022 by former President Muhammadu Buhari, fulfills the objective above. The NHIA Act repeals the National Health Insurance Scheme (NHIS) Act, Cap. N42, LFN, 2004 and aims to promote, regulate, and integrate health insurance schemes that operate in Nigeria; ensure that health insurance is mandatory for every Nigerian and legal resident; and facilitate universal health coverage for all Nigerians and legal residents (Ajala et al., 2022). The NHIA Act is enacted by the National Assembly of Nigeria in line with Item 60 of the Exclusive Legislative List, which provides for establishing and regulating authorities for the Federation or any part thereof to promote and enforce the observance of the Fundamental Principles and Directive State Policy contained in the Constitution (CFRN, 1999).

A review of the NHIA Act depicts 10 parts and 60 sections to ensure access to universal healthcare services (Nwuzor, 2022). Part I establishes the National Health Insurance Act; Part II provides for the types of Health Insurance Schemes; Part III is aimed at creating access to universal health care for all Nigerians and legal residents through the Basic Health Care Provision Fund and establishment of Vulnerable Group Fund; Part IV made provisions for contribution under the Health Insurance Schemes; Part V creates the Health Maintenance Organisations, Mutual Health Associations, and Third-Party Administrators; Part VI provide for the staffing of the NHIA; Part VII establishes the Fund for the Authority; Part VIII states the process of Arbitration; Part IX list out offences, penalties, and legal proceedings; and, Part X take care of miscellaneous issues.

In particular, Part II, section 13 of the Act provides for States of the Federation and the Federal Capital Territory to establish and implement a State health insurance and contributory scheme to provide access to health services to all its residents. The subsection defines residents as *'employers and employees in the private and public sectors with five employees and above, informal sector employees, and other residents of Nigeria.'* Similarly, Section 13(2) only mandated the Authority to establish a scheme for the coverage of employees of Ministries, Departments, Agencies in the Federal Civil Service, and other relevant groups.

Another provision in the NHIA Act is section 25. It establishes the Vulnerable Group Fund, while section 26 states the objectives of the Fund

principally to provide finance to subsidize the cost of providing health care services to vulnerable persons in Nigeria. It went on to state that the NHIA Council shall determine the level of subsidy for health insurance coverage for vulnerable persons and the payment of indigent health insurance premiums.

Section 31 of the Act empowers the Councils of the various State Health Insurance schemes to determine the rates of contributions to be paid by employers and employees in the formal sector and individuals, groups, and families in the informal sector with a proviso that contributions for vulnerable individuals not covered by other schemes will be borne by the three levels of government, development partners and/ or non-governmental organisations.

Section 59 of the Act defines '*vulnerable group*' to include '*children under five, pregnant women, the aged, physically and mentally challenged and the indigent as may be defined from time to time.*'

It is likely inferred that the ageing population is captured under 'all other residents of Nigeria'; this shows that they were not accorded priority in providing healthcare services.

Materials and Methods

This paper used a narrative review of secondary data. Information was elicited on different aspects of aging, health policy, health insurance, population, and Nigeria's Constitution using Google Scholar, PubMed, and African Journal Online as the search engines. Search terms such as Aging, Ageing, NHIA Nigeria, National Health Care Act, FMOH, WHO, and Healthcare were entered into the search engines. Several other documents, policy papers, and reports on Nigeria's healthcare delivery system were reviewed, covering the period between 2014 and 2022. The place of the ageing population and the new National Health Insurance Authority were discussed to identify the gaps in extending healthcare services to the ageing population.

Theoretical Framework

This study adopted the functionalist theory to explain the role of sustainable healthcare needs of the ageing population. The functionalist theory was adopted because it explains the actual reason behind the development of health policy in any society. The frontline proponents are Auguste Comte, Talcott Parson, and Robert K. Merton. It is their submission that society is made up of different parts which are interrelated and interdependent in ensuring essential stability and cooperation within any society. Social events can be explained through the actual functions they perform. The perspective of one of the proponents, Talcott Parson, was used to explore this topic under study. To Talcott Parson, health is a condition that must be available for society to strive. Health is the state of the optimum capacity of an individual for the adequate performance of the roles and tasks for which the individual has been socialised. He further argues that illness is a social rather than a physical condition. That is, unmotivated deviance is when an individual is sick and

cannot perform the roles assigned to the individual by society. To Parson, it is called a sick role. It can be regulated by defining the values and norms of society when an individual cannot perform the functions assigned (Hassan et al., 2021).

A society can only strive in harmony where access to health services is universal and affordable. According to Parson, health ensures that an individual performs their functions effectively in an optimum capacity. Older adults have various socialised roles and tasks for a stable society. And by so doing, their welfare must be provided for. The ageing population represents the repository of experience and knowledge for any nation. Nigeria requires the expertise and knowledge of its ageing population to navigate harsh economic realities. Wisdom, they say, comes from experience and old age.

Discussion

From the foregoing, this study observed that there are no direct constitutional provisions for the healthcare needs of the ageing population in Nigeria. Although there is a provision in the Fourth Schedule of the Constitution, there is no special unit or department for the aging population or aged or older adults in Nigeria. The local government council has no department or unit for the ageing population. The semblance of social service at that level is the social welfare unit, domiciled in the Education department, which is mainly saddled with the issues of abandoned babies, gender base domestic violence, and orphanage homes.

The study further found that the NHIA Act 2022 provisions disenfranchised federal retirees 60 years and older. Even though Section 14 makes it mandatory for every person to participate in health insurance compulsorily, the financial background of the aging population poses a more significant challenge in actualising this provision in the face of poverty and harsh economic realities. The economic realities have also negatively affected the caregivers' purses, thereby reducing the care the aging population requires. Therefore, this paper believes that the ageing population will not be able to contribute to the health insurance schemes in their various states.

The study discovered that the expressed provisions used in some provisions are not mandatory and, therefore, place compulsory obligations on the shoulders of the government of a state in providing Medicare for the ageing population. The word 'may' is discretionary in context and has no legal force in service delivery by any obligator.

It is also established by existing literature that before the new legislation, the repealed NHIS Act of 1999 failed to enroll more than 10% of the population (Dalhatu et al., 2022). It is, therefore, commendable that the new NHIA establishes a Fund for Vulnerable Groups. However, Ipinomo et al. (2022) noted that one key point is the non-clarity or specification on who the vulnerable and indigent will benefit from the Fund in accessing quality healthcare by integrating all the health

insurance schemes in Nigeria. By defining a vulnerable person, the Act failed to determine who an aged person is chronologically.

Conclusion and Recommendations

From the reviewed literature on the NHIA Act 2022, it can be deduced that the Act is of monumental importance, which does not suggest that it is without flaws. The Act failed to keep up with the dynamics of Nigerian society and to be at par with the international best practices in this area. An amendment to the principal Act to ensure specific provisions for the aging population will go a long way in meeting the objectives of the Act. In this regard, the following recommendations were made:

- i. The Constitution of the Federal Republic of Nigeria (CFRN) 1999 (As Amended) should be further amended to make the provision of healthcare service a fundamental right among the three tiers of government for the aging population;
- ii. Provisions should be made to revise, update, and enact new health legislation specifically for the aging population, such as the Elderly Care Bill; Labour, Safety, Health and Welfare Bill; Nigeria Centre for Disease Control Bill; Mental Health Bill; the Public Health Act; the Vaccination Act; Yellow Fever and Infectious Diseases (Vaccination) Act; the National Primary Healthcare Development Act; Acts governing professional bodies; and Quarantine Act (2004 Laws of the Federation).
- iii. An overhaul of the National Health Insurance Authority Act 2022 to incorporate care of the aging population, especially in chronic disease management and prevention;
- iv. A unique insurance scheme or programme with adequate funding should be created for the healthcare needs of the aging population;
- v. Healthcare should not be seen as an economic commodity that is sold to the highest bidder but should be seen as a fundamental right to be provided and protected by the government;
- vi. The state government should be encouraged to enact relevant laws to provide a legal framework for state health systems in line with the National Health Insurance Act 2022.

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