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**GENERAL NOTICES • ALGEMENE KENNISGEWINGS**

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**DEPARTMENT OF HEALTH****NOTICE 435 OF 2017****COUNCIL FOR MEDICAL SCHEMES****MEDICAL SCHEMES ACT, 1998****FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT, 2001****INVITATION TO INTERESTED PERSONS TO MAKE WRITTEN REPRESENTATIONS CONCERNING THE FOLLOWING INTENDED DECLARATION OF CERTAIN PRACTICES BY MEDICAL SCHEMES IN SELECTING DESIGNATED HEALTH CARE PROVIDERS AND IMPOSING EXCESSIVE CO-PAYMENTS ON MEMBERS AS IRREGULAR OR UNDESIRABLE PRACTICES BY THE MEDICAL SCHEMES, IN TERMS OF SECTION 7 OF THE FINANCIAL INSTITUTIONS (PROTECTION OF FUNDS) ACT, 2001 READ WITH SECTION 61 OF THE MEDICAL SCHEMES ACT, 1998**

- 1 In terms of section 7 of the Financial Institutions (Protection of Funds) Act, 2001, read with section 61 of the Medical Schemes Act, 1998, the Registrar of Medical Schemes hereby:
  - a. Publishes notice of the intention to declare certain practices as irregular or undesirable practices in relation to the activities of medical schemes;
  - b. Invites interested persons to make written representations concerning the intended declaration so as to reach the Registrar within 21 days after the date of publication of this notice;
  - c. Advises that the final declaration will not be published until at least 60 days after the date of this notice.
- 2 Written representations must be addressed to: The Registrar of Medical Schemes (Attention: Alicia Schoeman), Block A, Eco Glades, 2 Office Park, 420 Witch-Hazel Avenue, Eco Park, Centurion, or email: [legal@medicalschemes.com](mailto:legal@medicalschemes.com).

**PURPOSE**

- 1 **Selection of dedicated service providers**
  - 1.1 Chapter 3 of the Regulations in terms of the Medical Schemes Act, 1998 entitles a medical scheme to select healthcare providers as dedicated service providers to provide to its members diagnosis, treatment and care in respect of prescribed minimum benefit conditions.
  - 1.2 According to information provided to the Registrar, some medical schemes:
    - (1) Unilaterally and without restriction determine the criteria to apply when selecting their dedicated service providers (DSPs).
    - (2) Select DSPs without engaging in a fair procurement or tender process and without considering applications or tenders to join their DSP network from all interested service providers.
    - (3) Thus unfairly limit the number of selected service providers (including pharmacies) available to provide the healthcare services to the members.
    - (4) Oblige members only to use a limited number of DSPs or to risk paying exorbitant co-payments.

- 1.3 Among other things this practice has prevented many healthcare service providers, including independent community pharmacies, the opportunity to join the DSP network of such schemes even though they are willing and able to provide healthcare services at the same fee rate as the selected DSPs.

**2 Unfair penalty co-payments**

According to information provided to the Registrar, some medical schemes:

- 2.1 Specify in their rules the quantum of Regulation 8(2)(b) co-payments for pharmaceutical products which amount to penalty co-payments;
- 2.2 Calculated the penalty co-payments as a percentage of the total script dispensed by pharmacies which consists of the Single Exit Price (cost price) of the medicine plus the dispensing fee rate charged by the service provider pharmacy which unfairly penalises members who do not use the designated service provider.

**3 Draft declaration**

Subject to written representations made by interested persons in response to this notice, the Registrar may, with the concurrence of the Council for Medical Schemes and the Minister of Health declare the following business practices as irregular and undesirable for all medical schemes:

- 3.1 The selection by a medical scheme of a healthcare provider or group of providers as the preferred provider or providers to provide to its members the diagnosis, treatment and care in respect of one or more prescribed minimum benefit conditions, namely as designated service providers without engaging in a tender process which is fair, equitable, transparent, competitive and cost-effective.
- 3.2 Imposing a co-payment in terms of Regulation 8(2)(b) that exceeds the quantum of the difference between that charged by the designated service provider of the medical scheme and that charged by a provider that is not a designated service provider of such scheme.
- 4 The Registrar hereby invites interested parties to make written representations regarding the proposed declaration so as to reach the Registrar within 21 days after the date of publication of this notice.