



Guideline for the preparation of administration agreements in compliance with Regulation 18 and the administration standards

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1. OVERVIEW

The Medical Schemes Act, 1998 (Act no 131 of 1998) ("the Act") and the Regulations thereto ("the Regulations") indicate the requirements of providing administration services to medical schemes. One of the requirements in respect of administration arrangements between medical schemes ("schemes") and administrators is that there must be a written agreement setting out the arrangements, and which is duly signed by authorised persons from both parties.

A comprehensive, and properly drafted administration agreement ensure that both parties are fully aware of their rights and obligations in terms of the agreement. It also assists both parties in the identification and resolution of any disputes with regards to the execution of the agreement.

2. REGULATORY REQUIREMENTS

Listed below are the specific requirements in respect of administration arrangements which must be included in each administration agreement as is appropriate:

2.1. Regulation 18

Below is a list of the requirements as per the Regulations to the Act:

Reference	Requirement
Reg 18	<p>"Agreement in respect of administration –</p> <p>(1) Prior to an administrator commencing administrative functions with regard to a particular medical scheme, the medical scheme must enter into a written agreement with the administrator in which the terms and conditions of the administration of the medical scheme are recorded</p> <p>(2) The agreement referred to in subregulation (1) must provide –</p> <p>(a) for the scope and duties of the administrator;</p> <p>(b) that the administrator must, on behalf of the medical scheme, administer the business of a medical scheme in accordance with the Act and as provided for in the rules of the medical scheme;</p> <p>(c) for the basis on which the administrator is to be remunerated;</p>

Reference	Requirement
	<p>(d) for the termination of the agreement at the instance of either party after notice in writing of not less than three calendar months and not more than twelve calendar months;</p> <p>(e) that all registers, minute books, records and all other data pertaining to the medical scheme, must at all times remain the sole property of the medical scheme concerned, and that no lien may be held over them by the administrator.</p> <p>(3) Any changes to the agreement referred to in subregulation (1) must be in writing and must be effected by way of an addendum to the existing agreement or a new agreement between the administrator and the medical scheme.</p>

2.2. Administrator accreditation requirements (Administration standards – Version 5)

Standard reference	Standard description / requirement
1.1.2.1	Signed administration agreements are in place for all medical schemes for whom administration services are provided.
1.1.2.2	The agreements confirm the scope and duties of the administrator for each specific scheme.
1.1.2.3	The agreement contains full details of fees payable by the medical scheme, including basis of determination, reconciliation and payment.
1.1.2.4	Any amendments to the initial agreement are in writing and signed by the parties in terms of Regulation 18(3) of the Act.
1.1.2.5	The duration of the contract is provided for in the agreement.
1.1.2.6	The transfer of data procedures to be followed upon termination of the administration agreement must be clearly defined with particular regard to the timing, format and cost thereof.
1.1.2.7	The service level agreement (SLA) contains details of the service to be provided, the agreed upon service level, the performance measures, and relating penalties/remedies available to the parties in case of non-performance.
1.1.2.8	Where applicable, the admin agreement provides for the sub-contracting of admin functions by the administrator to another party.
1.1.2.9	The agreement provides that all registers, minute books, records and all other data pertaining to the medical scheme, must at all times remain

Standard reference	Standard description / requirement
	the sole property of the medical scheme concerned, and that no lien may be held over them by the administrator.
1.1.2.10	The agreement contains details of how confidentiality of data is to be maintained.
1.1.2.11	The agreement contains details on procedures to be followed in instances of breach of contract.
1.1.2.12	The agreement confirms that the administrator will take out or has in place the required fidelity and indemnity insurance.

2.3. Other

The following requirements, in addition to the requirements already mentioned above, must also be provided for in the admin agreement:

Requirement
1. The service level agreement (SLA) contains details of the service to be provided, the agreed upon service level, the performance measures, and relating penalties/remedies available to the parties in case of non-performance.
2. Where applicable, the admin agreement provides for the sub-contracting of admin functions by the administrator to another party.
3. The duration of the contract and termination arrangements are clearly defined and conform to the requirements of the Act.
4. The transfer of data procedures to be followed upon termination is clearly defined with particular regard to the timing, format and cost thereof.
5. The agreement contains details of how confidentiality of data is to be maintained.
6. The agreement contains details on procedures to be followed in instances of breach of contract.
7. The agreement confirms that the administrator will take out or has in place the required fidelity and indemnity insurance.

3. GENERAL CONSIDERATIONS

- An example of the provisions to be included in the admin agreements and the wording thereof can be found in the on our website at www.medicalschemes.com under "Publications", "Administrators", "Requirements for administration of medical schemes" policy document under "third party administration agreements".

- The administration agreements should be comprehensive, well written and clear.
- Medical schemes must apply their minds when contracting with an administrator in terms of the administration services contracted for and the relating administration fees.
- The administration agreement must be in the interest of the medical scheme's beneficiaries at all times.
- The full names and designations of the persons signing the agreements on behalf of the contracting parties must be clearly indicated.
- Each party should retain copies of the signed agreements at their registered offices.
- Regular reporting on the administrator's performance in terms of the agreement and the detailed service level agreement should be provided to the medical scheme on a regular basis.