



## CIRCULAR

Reference : Conciliation / mediation / appeals  
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### **Circular 15 of 2013: Pilot project: conciliation / mediation process prior to Appeals Committee hearings**

The Council for Medical Schemes (CMS) is launching a pilot project to explore the application of alternative dispute resolution mechanisms to the standard appeals procedure currently in place.

#### **Background**

After an appeal is lodged against a decision of a medical scheme or the Office of the Registrar, the parties usually have to wait a number of months before the matter can be heard by the Appeals Committee.

The CMS currently has a backlog of 87 cases that are required to be enrolled for hearing.

The proposed conciliation and mediation process aims to alleviate the congested roll of appeals and is expected to give parties the opportunity to settle disputes by agreement.

Even though the disputes could not be settled at this advanced stage of the process, it is our experience that a number of appeals are very often withdrawn or settled between parties on the day of the hearing. Other matters are usually referred back to the parties by the Appeals Committee in cases where it is found that an ex gratia payment is indicated or where crucial information is outstanding. This results in wasted time and costs at the level of the Appeals Committee hearings.

To address this issue, the CMS has appointed an independent service provider, Equillore Group Ltd, who will facilitate the conciliation and mediation processes. Equillore offers qualified and experienced mediators who are accredited with the Dispute Settlement Accreditation Council (DiSAC).

## Process

Once an appeal has been lodged, the parties will be informed in writing that the matter has been referred for conciliation and mediation. The mediators will contact the parties via e-mail or telephone, and will attempt to settle the matter. If the matter cannot be settled, the mediators will attempt to narrow down the issues in dispute to be considered by the Appeals Committee during the hearing.

The process is voluntary and without prejudice. Any discussions during the process are confidential and will not be disclosed to the Appeals Committee members during the hearing. The outcomes and concessions made by the respective parties will not create an entitlement or set a precedent.

Equillore will furnish the CMS with a memorandum to communicate the outcome of the referral and to state the Rand value that is involved. The memorandum will accompany the appeal bundle that is sent to the secretary of the Appeals Committee in respect of those matters that were not settled.

## Advantages of participating in the procedure

- No costs are associated with participation in the process.
- There is no entitlement to legal representation during this phase, which means that the parties are on equal footing. Accordingly, no legal costs will be incurred.
- This is the opportunity to settle the matter in an expeditious manner.
- There is no face-to-face confrontation between parties.
- In cases where the parties proceed with the appeal hearing, the issues would have been narrowed down to ensure a more time-efficient hearing.

## Completion of the pilot phase

Upon completion of the pilot phase, a meeting will be set up to provide industry with feedback and to obtain further input for consideration in future.

The conciliation phase will then be incorporated into the rules of the Appeals Committee and the Medical Schemes Amendment Bill.



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