



CIRCULAR

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Reference : Accreditation Unit
Contact : Danie Kolver
Telephone : (012) 431 0509
Facsimilee : (012) 431 0609
E-mail : d.kolver@medicalschemes.com
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CIRCULAR 27 OF 2012: DIRECT MARKETING OF HEALTH CARE BENEFITS TO THE PUBLIC AND MANAGED CARE ACTIVITIES NOT REQUIRED TO BE ACCREDITED

Regulation 15A(1)(b) of the Medical Schemes Act requires managed health care organizations to be accredited by the Council for Medical Schemes (CMS). In accrediting managed health care organizations, the CMS seeks to ensure that:

- they are fit and proper to conduct to provide managed health care services
- have the necessary resources, systems, skills and capacity to render managed health care services which they wish to provide; and
- are financially sound.

It is inevitable that some organizations that apply will be adjudged as not being suitable to be accredited by the CMS as managed health care organizations.

It has come to the attention of CMS that some entities, who apply for accreditation as managed health care organisations and who are after evaluation of the application found not to be subject to accreditation by the Council for Medical Schemes, misconstrue such communication from this office to be an exemption. This is not

so and it is incorrect for those entities to then proceed and market their services directly to the public based on a perceived exemption from the Council or the office of the Registrar of Medical Schemes.

The effect of regulation 15A(1)(b) is that managed health care organizations are unable to contract with medical schemes unless accredited by the CMS.

In addition, any promotion, marketing or soliciting of business with the aim to provide health care cover directly to the public, employers or other entities or person in return for a contribution or premium or an agreed prepaid amount to such person or entity, is conducted in contravention of the Medical Schemes Act, 1998 unless such organisation is duly registered as a medical scheme in terms of prevailing legislation. The business of a medical scheme is defined as ***“...the business of undertaking liability in return for a premium or contribution—***

(a) to make provision for the obtaining of any relevant health service;

(b) to grant assistance in defraying expenditure incurred in connection with the rendering of any relevant health service; and

(c) where applicable, to render a relevant health service, either by the medical scheme itself, or by any supplier or group of suppliers of a relevant health service or by any person, in association with or in terms of an agreement with a medical scheme; “

It is similarly important to note that not all services meet the definition of managed health care services and are therefore not required to be accredited in terms of the Medical Schemes Act. ***“Managed health care”*** is defined as ***“clinical and financial risk assessment and management of health care, with a view to facilitating appropriateness and cost-effectiveness of relevant health services within the constraints of what is affordable, through the use of rules-based and clinical management-based programmes;”***

A general guide that organizations can apply to determine whether or not they are required to be accredited as a managed health care organization is as follows; entities must have a business model whereby the organisation applies clinical protocols, otherwise referred to as clinical practice guidelines, standard treatment guidelines, disease management guidelines, treatment algorithms and clinical pathways in accordance with formal techniques designed to monitor the use of and evaluating clinical necessity, appropriateness, efficacy and efficiency of health care provision on the basis of which appropriate interventions are made. For additional guidance in this regard, organizations are directed to the Managed Health Care Policy Document that was issued by the CMS in August 2003. This document can be accessed through the following link: http://www.medicalschemes.com/files/Guidelines%20and%20Manuals/Managedhealthcare_Policy_doc_2003.pdf. The names and details including the services provided by those entities accredited and the period of accreditation are published on the Council's website at www.medicalschemes.com for general information. Accreditation of managed care organisations is done in accordance with standards which can be accessed through the following link:

<http://www.medicalschemes.com/files/Managed%20Care%20Organisations/MCOAccrSTDSV4.pdf>

The above also applies therefore to capitation products whereby it is not envisaged to accredit all such products and arrangements. Specifically, health care services provided by health care practitioners who practice as members of an Independent Practice Associations (IPA's) or by specific entities or persons who, in terms of agreements between themselves and medical schemes, render services associated with benefit management techniques, are generally not required to be accredited as managed care organizations. Such providers are usually contracted by medical schemes to provide these services in their capacity as designated or preferred service providers. Examples of the latter would include the application of business rules relevant to ordinary pharmacy benefit management services, diagnostic procedures such as radiology and pathology management, dental management services, optometry management services and clinical advisory services unless they comply with the accreditation criteria and are formally accredited.

On the other hand, these service providers will be acting in contravention of the Medical Schemes Act should they directly market to the public and providing their services for a monthly contribution or retainer as opposed to the fee for services required for by health care providers. By receiving such monthly payment or contribution from the public, whether it is individuals or businesses, they will be conducting the business of a medical scheme as stipulated in the Medical Schemes Act.

Stakeholders are advised to avail themselves of the facts and clarify any uncertainty with this office in order to enhance general compliance with prevailing legislation and to bring suspect activities to the attention of this office for further investigation and appropriate action.



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