



**CIRCULAR**

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## **PERSONAL MEDICAL SAVINGS ACCOUNTS**

Section 30(1)(e) of the Medical Schemes Act 131 of 1998 (the Act) states that the rules of the scheme may make provision for the allocation to a member of a personal medical savings account (PMSA).

Regulation 10(3) states that funds deposited in a member's personal medical savings account shall be available for the exclusive benefit of the member and his or her dependants.

In January 2007 the High Court of South Africa, in the case of Registrar of Medical Schemes vs. The liquidators of Omnihealth and others (case no 18545/06) (the Omnihealth case), ruled that funds standing to the credit of the personal medical savings accounts of the members constitute trust money as defined in section 1 of the Financial Institutions (Protection of Funds) Act 28 of 2001. It also ordered that interest accrued on these amounts must be paid to the members and if any members cannot be located, the balance pertaining to such members must be paid into the Guardians Fund to be administered there under.

Medical schemes were advised of the outcome of this case in May 2007, Press release 4/2007.

## 1. Implementation

A survey of schemes and administrators conducted by an independent party on behalf of Council determined that many schemes are not dealing correctly with PMSA balances in terms of the Act, the Regulations and the Omnihealth case. During the survey, suggestions were obtained on how best to implement the changes and what systems, procedures and operational changes would be required to comply with the requirements of the Act.

For schemes to correctly record, handle and comply with the above, funds comprising the PMSA must be dealt with as follows:

- a) Contributions received must be retained in a trust bank account, separate from any of the scheme's bank accounts. From a practical point of view, it will be acceptable for PMSA contributions to be collected together with the risk contributions, but the savings portion must be transferred to a separate trust account within seven days of receipt.
- b) Savings claims will be reimbursed to the scheme from the trust account after each claims run.
- c) This separate bank account should be named "ABC Medical Scheme PMSA Trust account" or similar i.e. should be indicative that PMSA monies are held in trust by scheme on behalf of members.
- d) Surplus PMSA funds are to be invested separately from the scheme's investments. They must, similarly to the bank account, be in the name of "ABC Medical Scheme PMSA Trust account".
- e) Annexure B restrictions are not applicable to the savings investments. However, as the nature of the savings liability is short term the funds should be invested in bank deposits and call accounts only.
- f) All interest and other income earned on those monies is to be paid to the members or accrued to the savings account balances. No portion of the investment income earned on the savings investments may be retained by the scheme for any reason or purpose. It will be acceptable to allocate interest on a pro-rata basis based on closing month end savings balances.
- g) Administration costs: costs of administering the scheme may not be recovered from PMSAs as they are already recovered in the risk portion of the contributions. Costs directly related to savings accounts, such as bank charges on the trust bank account and investment management fees, may be recovered from PMSAs.
- h) These savings funds do not form part of the scheme's assets and they may not be used to pay scheme's costs or liabilities. In the event of liquidation of the scheme, these funds will not form part of the scheme's assets.
- i) Unclaimed savings balances, where the member cannot be traced within one year of the member leaving the scheme and after all reasonable attempts at tracing the members have been pursued, must be paid to the Guardians Fund.
- j) Savings advances may not be made out of the savings trust funds. These advances will need to be funded out of scheme funds. Similarly no impairments (bad debts) of savings debit balances may be charged or recovered from the trust funds. The scheme will therefore carry the risk associated with savings advances.

It is not anticipated that the introduction of these new procedures will require any major systems changes or enhancements.

Schemes are required to submit amendments to scheme rules to make provision for the above requirements. In instances where schemes fail to ensure that such amendments are submitted they are advised that Section 31(4) of the Act may be applied to ensure compliance herewith.

## 2. Disclosure in financial statements

The savings account balances and the investments and bank balances representing the savings balances will no longer be reflected in the Statement of financial position (Balance sheet). Instead the notes to the AFS will reflect the nature and details of the savings accounts, together with a reconciliation of the movements on the accounts for the year. The format and details as per the illustrative disclosure of the savings plan liability (where the scheme does not carry the risk) in appendix II (page 58-59) of the *SAICA Medical Schemes Accounting Guide* for 2011, should be used. The bank balances and investments representing those balances must also be reflected in the note. A summary of the nature of the investments must be provided.

The savings contributions and the savings claims will also not be reflected in the statement of comprehensive income (income statement). However, the notes to the accounts must still include the gross contribution and net relevant healthcare expenditure notes that currently appear in the annual financial statements. Refer to page 60 and 61 of the *SAICA Medical Schemes Accounting Guide*.

Investment income must be credited directly to the savings accounts and must not be reflected in the scheme's income statement. See annexure A for illustrations.

Schemes that are not able to implement these requirements and register rule amendments by the beginning of 2012 will need to apply for exemption as they will not be compliant with Regulation 10.

The solvency ratio calculation will not change and will continue to be based on gross contributions, inclusive of the savings portion.

It will not be required for a separate audit of the trust funds (such as is required for attorney's and estate agents trust accounts) to be conducted. The savings accounts will be covered as usual by the normal statutory audit as contemplated in Section 37 (3) of the Act.



**Tebogo Maziya**

**Head: Financial Supervision**

**Council for Medical Schemes**

## Illustration of financial disclosures relating to Personal Medical Savings accounts.

**Savings account trust monies managed by the scheme on behalf of members**

|  | 20xx<br>R'000 | 20yy<br>R'000 |
|--|---------------|---------------|
| Balance on savings account balances at beginning of the year |               |               |
| Add: savings account contributions received                  |               |               |
| Interest and other income earned on trust monies invested    |               |               |
| Transfer from other schemes                                  |               |               |
| Less: Claims paid out of savings                             |               |               |
| Transfers to other schemes                                   |               |               |
| Refunds on death or resignation                              |               |               |
| Balance held in trust at the end of the year                 |               |               |

**Investment of trust savings balances**

Bank account

Fixed deposits

Total trust monies invested

**Gross contributions**

Net contributions per income statement

Savings contributions received

Gross contributions

|   | 20XX<br>R'000 | 20YY<br>R'000 |
|---|---------------|---------------|
| <b>Relevant Healthcare Expenditure</b>  |               |               |
| <b>Claims incurred excluding claims incurred in respect of risk transfer arrangements</b> |               |               |
| Current-year claims   |               |               |
| Services provided to members in own facilities  |               |               |
| Movement in outstanding claims provision  |               |               |
| Over/ under provision in prior year   |               |               |
| Adjustment for current year   |               |               |
| Movement in provision arising from liability adequacy test                                |               |               |
| Over/ under provision in prior year   |               |               |
| Adjustment for current year   |               |               |
| Claims paid/ charged to savings accounts  |               |               |
| Managed care: healthcare services   |               |               |