



CIRCULAR

Reference : Regulator cautions medical schemes against frivolous expenditure
Contact : Stephen Mmatli
Telephone : 012 431 0578
Facsimile : 012 431 0678
E-mail : s.mmatli@medicalschemes.com
Date : 9 December 2011

Circular 51 of 2011: Regulator cautions medical schemes against frivolous expenditure

On 7 November 2011 Judge Pretorius of the North Gauteng High Court in Pretoria ruled that the Board of Healthcare Funders of Southern Africa (BHF) had no legal standing to bring an application on behalf of some medical schemes for a declarator on the interpretation of Regulation 8 of the Medical Schemes Act 131 of 1998.

The Court further ordered that the BHF pay the legal costs of the 12 respondents in the matter, including the Council for Medical Schemes (CMS). The cost order against the BHF includes the costs of all counsels.

It has been reported in the media that the cost order against the BHF could amount to R7-8 million.

The BHF has now filed an application for leave to appeal the judgment of Justice Pretorius. This would result in additional legal costs for the BHF should they be granted such leave to appeal.

The BHF is a voluntary association constituted of fewer than 70 medical schemes and administrators. There are currently 98 medical schemes and 24 administrators in South Africa that are accredited by the CMS.

Like any other voluntary association, the BHF is funded by its members, in this instance medical schemes and administrators. The source of medical schemes funds is, in turn, members of medical schemes.

The CMS, being the custodian of medical scheme members, is extremely concerned over the possible frivolous expenses of and cost implications for the BHF member schemes and administrators.

This Circular serves to caution Boards of Trustees (BoT's) of schemes which are members of the BHF not to utilise member funds to support the litigation driven by the BHF against the CMS, as we are advised that this contemplated litigation by the BHF has no prospects of success.

The CMS will not hesitate to invoke the relevant provisions of the Medical Schemes Act against the BOTs of schemes that ignore this directive which aims to protect the interests of members of medical schemes.



Stephen Mmatli
Head: Compliance & Investigations
Council for Medical Schemes