



Reference: Managed Health Care Agreements – Performance/ Profit Sharing Incentives  
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## **CIRCULAR 51 OF 2014: MANAGED HEALTHCARE AGREEMENTS – UNWARRANTED PERFORMANCE OR PROFIT SHARING INCENTIVES**

Circular 36 of 2011 (<http://www.medicalschemes.com/files/Circulars/Circular36Of2011.pdf>) provided a guideline for the preparation of managed care agreements in compliance with the relevant regulatory requirements. This includes that the agreement clearly provides for the managed care fees payable in respect of the services provided, the basis of determination thereof, the inclusion of a detailed service level agreement in terms of the services provided, agreed upon service levels, performance measures and relating penalties/remedies available to the parties in the case of non-performance. It is required of managed health care organisations to provide contracted managed health care services of a high standard. Circular 13 of 2014 (<http://www.medicalschemes.com/files/Circulars/Circular13Of2014.pdf>) further stipulated the accreditable managed health care services.

The Council for Medical Schemes (CMS) is concerned that certain managed health care organisations enter into performance incentive or profit sharing arrangements with client medical schemes for the provision of managed health care services in addition to the contracted fees already provided for in the managed care agreements.

“Managed health care” is defined in Regulation 15 of the Medical Schemes Act 131 of 1998 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”*.

Certain performance incentives or profit sharing arrangements include managed care organisations receiving a percentage of “savings” generated through the application of the managed health care principles and techniques, or receiving an additional fee should certain service levels be reached. This office fails to understand the rationale for the inclusion of performance incentive or profit sharing type arrangements into the managed health care agreements; as one of the core principles of a medical scheme engaging in a managed care arrangement with a managed health care organisation, is to reduce the cost of health care; and the managed health care organisation is already adequately remunerated for the services it provides as is provided for in the agreement. It is also important to note that managed care provision is accredited on the basis that the service must be cost effective to client medical schemes and provide for a value proposition which aims to improve quality health care as well as a reduction in costs.

These type of arrangements could be perceived to be a perverse incentive to encourage the denial of benefits through the non-authorisation of benefits or the short or non-payment of claims so as to result in a higher “saving” to the medical scheme, and therefore a higher “profit sharing” fee to the managed health care organisation and is therefore harmful and prohibited.

Furthermore, Section 26(5) of the Medical Schemes Act makes it clear that no payment in whatever form shall be made by a medical scheme directly or indirectly to any person as a dividend, rebate or bonus of any kind whatsoever.

Medical schemes, managed care organisations and any other relevant contracting parties are hereby instructed to refrain from entering into performance incentive or profit sharing arrangements for the provision of managed health care services. Any such existing arrangements or practices must be terminated without delay and the relevant agreements amended accordingly. Furthermore, full details of any such monies received in terms of these types of arrangements by managed care organisations must be disclosed to this office, for attention of the writer, by 30 November 2014.



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