



PRESS RELEASE

Reference: Member broker switching
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Press release 17 of 2015: CMS warns, only members of schemes allowed to appoint healthcare brokers of their choice

The Council for Medical Schemes (CMS) has received several enquiries lately about the correct and legal manner for members to appoint or switch from one broker to another, including an employer or other representative organisation seeking to do so on behalf of members.

Mr Daniel Lehutjo, Acting Chief Executive Officer and Registrar of the CMS said, only a member, or the relevant employer in the case of an employer group, is allowed to appoint or replace a broker on the member's behalf. "When a member has been admitted to a scheme without the assistance of a broker, there is no basis in law or otherwise for any person or entity (including an employer, trade unions or medical schemes) to appoint brokers for their employees or members and for brokers so appointed to claim from the medical scheme concerned to be compensated without having been appointed by the employees or the members themselves. No person or entity is in a position to assume the role of an agent representing the member in appointing a broker in relation to the medical scheme thereafter."

An employer cannot allocate its employees to any broker nor appoint a broker to service its employees on an exclusive basis, notwithstanding the fact that the employer may subsidise in part or in full, any contributions in respect of those employees. The relevant Regulations to the Medical Schemes Act, 131 of 1998 (the Act) provide for limited recognition of the role employers can play with regard to the appointment of brokers for its employees.

The CMS points the industry and related parties to take special note of [Circular 20 of 2010](#) and Regulations 28 and 28A of the Act, which clearly outline the position in law with regard to the admission of members to medical schemes and regulatory compensation of brokers that is widely applied in a strict manner by medical schemes. It is also important to note that healthcare intermediaries are required to comply with the Code of Conduct for Financial Services Providers, which is enforced by the Financial Services Board (FSB) in terms of the Financial Advisory and Intermediary Services Act, 2002.

Trade unions and its representatives have no statutory recognition which grants them legal standing to appoint any broker for the purpose of being recognised in terms of the Act. It follows that no person, or entity, can assume the role played by

employers insofar as prevailing legislation recognises the specific, yet limited, role an employer can play as referred to in the circular letter.

Any failure to comply with the provisions of the Act, as it relates to the appointment and switching from one broker to another by members, will lead to the prescribed punitive measures being taken against any offending parties by the CMS and the FSB.

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Prepared by

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