



## PRESS RELEASE

Reference : Trustees of Hosmed Medical Scheme removed  
Date : 12 December 2013

### Press release 20 of 2013: Trustees of Hosmed Medical Scheme removed

The independent Appeal Board has dismissed an appeal against the decision of Council to remove three trustees from the Board of Hosmed Medical Scheme.

Council had removed the trustees from office after it found that they were not fit and proper to run a medical scheme.

On 11 November 2013 the Appeal Board confirmed their removal in terms of Section 46(1) of the Medical Schemes Act 131 of 1998, saying they had “acted improperly” when they:

- selectively wrote off debt owed to Hosmed by their employer and by doing so had benefited their employer and themselves but prejudiced the medical scheme, its beneficiaries, and other employer groups;
- failed to disclose this conflict of interest and did not recuse themselves from meetings;
- lied under oath when they claimed that Hosmed had signed an agreement with a service provider when in fact it had not, which amounted to irregular procurement;
- procured marketing material in an irregular manner;
- conducted an investigation in an unfair and aggressive way to the extent that a number of employer groups decided to leave the scheme, causing Hosmed to lose almost 3 000 members; and
- failed to manage their personal finances responsibly – and were therefore unlikely to do a proper job of running a medical scheme which covers thousands of lives.

The trustees were alleging bias on the part of the Registrar and Council, but the Appeal Board found that they “base[d] their allegation[s] on no facts at all”, calling them “unsubstantiated and speculative”. The Appeal Board concluded that these trustees “do not have sufficient insight into the nature of the office of a trustee and the responsibilities connected therewith”.

“After a protracted inspection process on the affairs of the scheme, this decision of an independent tribunal should be lauded as another victory for the prevalence of good governance in medical schemes,” said Dr Monwabisi Gantsho, Chief Executive of the Council for Medical Schemes (CMS) and Registrar of Medical Schemes.

The CMS is the regulator of the medical schemes industry, responsible for enforcing compliance with the Medical Schemes Act to ensure that the interests of beneficiaries are prioritised at all times. Council is the Board of the CMS, consisting of up to 15 members appointed by the Minister of Health.

Hosmed is an open medical scheme that had about 80 000 beneficiaries at the end of 2012, and a solvency (reserves expressed as a percentage of contributions) of a healthy 23.1% – making it one of the biggest and healthiest schemes in the country. The scheme remains financially stable and sustainable in the long run, and it is able to honour its claims-paying responsibility.

### **The penalties of R350 000**

In a separate process, the same trustees – Takalani Aaron Kwinda (who has since passed away), Thomas Pusabi Baloyi, and Sello Solomon Bodiba – together with the Principal Officer of Hosmed, Dawid van Zyl, tried to plead exception to a summons in which the CMS was telling the scheme to pay penalties of R350 000 for failing to comply with certain provisions of the Medical Schemes Act, dealing primarily with the timely submission of financial statements. In what was a trial within a trial, the trustees and Principal Officer tried to argue that the CMS does not have the power to institute legal action against them. The North Gauteng High Court in Pretoria dismissed their plea for exception on 27 November 2013, meaning that the hearing on the merits of the summons can resume.

### **The way forward**

Hosmed has indicated that it accepts the Appeal Board's judgement on the removal of the trustees. The hearing on the R350 000 penalty is ongoing before the North Gauteng High Court in Pretoria.

### **Where to find the judgements**

Both judgements are available on the CMS website, and specifically [http://www.medicalschemes.com/files/Judgements%20on%20Appeals/Hosmed\\_AB2013.pdf](http://www.medicalschemes.com/files/Judgements%20on%20Appeals/Hosmed_AB2013.pdf) for the judgement of the Appeal Board and [http://www.medicalschemes.com/files/Judgements%20on%20Appeals/Hosmed\\_HCJM.pdf](http://www.medicalschemes.com/files/Judgements%20on%20Appeals/Hosmed_HCJM.pdf) for the judgement of the High Court.

### **Advice to brokers**

Brokers are advised to act with restraint. Any advice they give must be based on a proper assessment of the situation and accord with the principles of best advice. The best interests of their clients must be borne at heart at all times.

As financial advisors, brokers are also reminded of the Financial Services Board (FSB) legislation which clearly stipulates that consumers are entitled to best – meaning independent – advice at all times.

### **Prepared by:**

Aleksandra Serwa  
Communications Manager  
Council for Medical Schemes  
012 431 0512  
[a.serwa@medicalschemes.com](mailto:a.serwa@medicalschemes.com)

### **For more information**

Customer Care Centre  
Council for Medical Schemes  
0861 123 267  
[information@medicalschemes.com](mailto:information@medicalschemes.com)

**Media enquiries**

Dr Elsabé Conradie

Head: Stakeholder Relations

Council for Medical Schemes

012 431 0430

[e.conradie@medicalschemes.com](mailto:e.conradie@medicalschemes.com)

