



## PRESS RELEASE

Reference : Weight not an obstacle to joint replacement surgery  
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### **Press release 2 of 2012: Obesity alone is not enough to disqualify you from joint replacement surgery**

An independent appeal board has ruled that obesity alone cannot prevent you from undergoing joint replacement surgery, and that your medical scheme cannot use your weight to deny you access to benefits.

The ruling came as a result of a battle between medical schemes (who had contracted with the same managed care organisation), and the regulator of the medical schemes industry: the Council for Medical Schemes (CMS).

On 1 February 2012 the independent Appeal Board upheld a ruling of the CMS in which the regulator found that your Body Mass Index (BMI) cannot be used to deny you access to surgery for joint replacement. The Appeal Board is tasked with hearing appeals against decisions made by the CMS.

“This is another victory for the regulator and, more importantly, members of medical schemes,” said Dr Monwabisi Gantsho, the Registrar of Medical Schemes and Chief Executive of the CMS. “We have once again shown that we stand up for what is right and fight to protect the rights of members. We spare no effort to oppose any attempts to undermine the principles enshrined in the Medical Schemes Act. One such principle prohibits unfair discrimination, including the denial of benefits based on a member’s weight.”

The Appeal Board based its ruling on Regulations 15H(a) and 15H(c) of the Medical Schemes Act 131 of 1998, which speak about managed care protocols.

Medical schemes are allowed to use managed care interventions to ensure that their members receive appropriate care within the limits of what the schemes can afford. Protocols are an example of a managed care intervention.

But according to Regulation 15H(a), protocols must be evidence-based. And according to Regulation 15H(c), protocols must allow for alternative treatment in exceptional circumstances where the protocol has proven ineffective and/or harmful to the patient, without penalising the patient.

The Appeal Board found that the protocol which the managed care organisation in question had been applying, fell foul of these Regulations.

The managed care organisation was ordered to suspend the protocol with immediate effect and its contracted medical schemes were ordered to authorise and fund joint replacement surgery where it was clinically necessary, regardless of the patient's weight.

The 14-page ruling of the Appeal Board can be found on the CMS website (<http://www.medicalschemes.com/files/Judgements%20on%20Appeals/MedShieldMSOSAvsCMSRegistrarPCMS.pdf>).

#### **For more information**

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