



Reference: SAMWUMED placed under provisional curatorship
Contact person: Alicia Schoeman
Tel: 012 431 0431
Fax: 0866865390
E-mail: information@medicalschemes.com
Date: 9 May 2018

Press release 3 of 2018: SAMWUMED placed under provisional curatorship

The Western Cape Division of the High Court in Cape Town has on 3rd May 2018, placed the South African Municipal Workers Union Medical Aid Scheme (SAMWUMED) under provisional curatorship following a successful application by the acting Registrar of the Council for Medical Schemes (CMS), in terms of Section 56(1) of the Medical Schemes Act, No. 131 of 1998 (the MS Act), and Section 5(1) and (2) of the Financial Institutions (Protection of Funds) Act 28 of 2001 (the FI Act).

Acting Judge P Andrews ordered that Mrs. Duduza Khosana be appointed as provisional curator for SAMWUMED.

The two key issues for determination by the Court in this matter revolved around (a) whether the current Board of Trustees (BOT) of SAMWUMED were legally constituted; and (b) whether the CMS has established that there is good cause to warrant the appointment of a curator. As part CMS' submission, it was submitted that SAMWUMED is closely associated with the South African Municipal Workers Union (SAMWU); and has been affected by the internal strife that arose within SAMWU since 2016.

The CMS submitted that the strife between the warring factions has resulted in material irregularities which have paralysed SAMWU's management, including its ability to hold scheme meetings. The regulator further indicated that the continued participation in the BOT decisions by the trustees whose membership were terminated on 4 May 2016, gave rise to a situation where SAMWUMED was unlawfully managed for approximately 20 months.

The CMS asked the Court to appoint a curator for the Scheme, as a move towards addressing the issue of the invalid BOT, and facilitate the election of a new BOT.

The Court found that "the state in which the BOT is currently functioning is not conducive and that restoration of proper governance of the scheme in compliance with the provisions of the Trust Deed and its regulatory framework is of primary importance." Citing AJA Fourie in *Barnard v Registrar of Medical Schemes*, Acting Judge P Andrews concluded that it is in the interest of the beneficiaries of the Scheme to appoint a curator, in view of the material irregularities identified in this matter. The Court found that the CMS had established a good cause for the appointment of a curator under these circumstances.

Implications of the provisional curatorship

The curator will assume control of the business of the scheme in order to restore the scheme to proper corporate governance and to address irregularities identified by the Office of the Registrar.

The Registrar wish to point out that there is therefore no need for ANY concern on the part of members and service providers, regarding the day to day operations of the scheme.

Advice to brokers

Brokers are strictly cautioned not to act in any manner that negatively affects the integrity of the scheme's risk pool. Any advice provided to members must be in line with the principles of good advice, and in the best interest of members.

The CMS will continue to exercise statutory oversight regarding the affairs of the medical schemes, and to ensure that the interests of members of medical schemes are protected at all times.

To access a copy of the court order, please click [here](#)

End

Prepared by:
Pulane Molefe
Manager: Communication
Council for Medical Schemes
012 431 0512
p.molefe@medicalschemes.com

For more information
Customer Care Centre
0861 123 267
information@medicalschemes.com