



PRESS RELEASE

Reference : Regulator of medical schemes gets former Judge President to chair its Appeal Board
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Press release 6 of 2013: Regulator of medical schemes gets former Judge President to chair its Appeal Board

The former Judge President of the North Gauteng and South Gauteng High Courts has been appointed to chair the Appeal Board of the Council for Medical Schemes (CMS).

The Minister of Health appointed Judge Bernard M. Ngoepe the Chairperson of the Appeal Board with effect from 29 October 2012.

The Appeal Board is responsible for adjudicating on appeals against decisions of the CMS, regulator of medical schemes.

Judge Ngoepe has served as Judge for 18 years, 14 of which as Judge President. He is a Judge of the African Union's African Court for Human and People's Rights and has acted as Judge of both the Constitutional Court and the Supreme Court of Appeal (SCA). He is the Chancellor of the University of South Africa (UNISA) and has served on many other bodies. Judge Ngoepe has also recently been appointed Chairperson of the Appeals Panel of the Press Council of South Africa. He was a member of the Amnesty Committee of the Truth and Reconciliation Commission (TRC).

Judge Ngoepe was admitted as attorney of the Supreme Court of South Africa in 1976, and as advocate in 1983. He has received several awards and honours.

"I feel honoured by the appointment," said Judge Ngoepe. "I hope to make some contribution."

"I am pleased that the Minister of Health, Dr Aaron Motsoaledi, has made this appointment. It adds a lot of credibility to the CMS appeals processes as both Judge Ngoepe and the Minister consider the work done by the regulator very important," said Dr Monwabisi Gantsho, Chief Executive of the CMS and Registrar of Medical Schemes.

How the complaints process works

Beneficiaries are encouraged to speak out whenever they feel uncertain or aggrieved by a decision of their medical scheme.

The Medical Schemes Act 131 of 1998 requires all medical schemes to establish dispute resolution committees where beneficiaries can go to lodge complaints. Where no resolution is reached, beneficiaries should approach the CMS. The CMS

regulates the medical schemes industry, and is responsible for enforcing compliance with the Medical Schemes Act to ensure that the interests of beneficiaries are prioritised at all times. Its equally important function is to serve as the ombudsman for the industry.

There is a prescribed process which beneficiaries should follow when they lodge a complaint with the CMS.

First of all, there are a number of different ways in which to lodge a complaint. The CMS can be called (hotline number 0861 123 267), faxed (012 431 0608), e-mailed (complaints@medicalschemes.com), or sent a letter. Beneficiaries and members of the public are also welcome to come see us in person; our Legal Adjudication Officers are available to offer advice and assistance.

The complaint is received by the Registrar of Medical Schemes, who sends the complaint to the other party (usually the medical scheme) within a time frame deemed reasonable by the CMS. The medical scheme has 30 days to respond.

The Registrar must then analyse all the information and make a determination, which is communicated to both parties.

If a party feels aggrieved by a decision of the Registrar, they have 30 days within which they can appeal his decision to the Appeals Committee, which is a sub-committee of Council.

Council consists of up to 15 members appointed by the Minister of Health to oversee the running of the CMS.

Council has delegated the Appeals Committee to function as its adjudicative arm in order to settle disputes arising from decisions of the Registrar or medical schemes.

The Appeals Committee consists of medical and legal professionals. It sits every second month at the premises of the CMS.

The Appeals Committee can endorse the decision of the Registrar, or overrule it. It has reasonable time to arrange a hearing and six weeks to make a ruling.

Decisions of the Registrar which are under appeal, are suspended until a decision on the appeal is made.

If a party feels aggrieved by a ruling of the Appeals Committee, they have 60 days to lodge an appeal with the Appeal Board.

The Appeal Board consists of three members appointed by the Minister of Health, one with a legal qualification and two with knowledge of medical schemes. The person with the legal qualification is also the Chairperson of the Appeal Board.

The hearings of both the Appeals Committee and the Appeal Board are open to the public.

Once the Appeal Board rules on a matter, the internal processes at the CMS are deemed exhausted.

The judicial process then starts if the aggrieved party decides to approach the High Court for an appeal or a review application. An appeal challenges the merits of the Appeal Board's decision; a review challenges the process that was followed to reach the decision.

Although a person can seek relief from the High Court at any stage during the appeals process, the judiciary usually refers matters back to the CMS to first exhaust the CMS's internal processes – a principle in common law.

The CMS is best equipped to deal with the specialised nature of complaints relating to the medical schemes industry.

All judgements of relevance to the CMS – i.e. of the Appeals Committee, the Appeal Board, the High Court, the SCA, and the Constitutional Court – are available on the CMS website (<http://www.medicalschemes.com/Publications.aspx?id=17&category=Judgements%20on%20Appeals>).

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