



PRESS RELEASE

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Press release 6 of 2015: The CMS is a caring and responsive medical schemes regulator

The Council for Medical Schemes (CMS) is a caring and responsive regulator of the private medical schemes industry with a proud track record borne out by 15 years of staying on the pulse of serving the 8,7 million beneficiaries of this R129 billion private medical schemes industry.

Not only is the CMS responsible for enforcing the Medical Schemes Act 131 of 1998 (MSA) but it fully adheres and complies with a raft of other legislation. The Auditor-General of South Africa last year provided the CMS with its 14th unqualified audit report in a row for the manner in which the CMS managed its financial affairs and complied with the requirements of the Public Finance Management Act 1 of 1999 (PFMA) and other applicable legislation.

The CMS has a Council, which acts like a board, while the executive authority of the CMS is the Minister of Health, who together with the National Treasury, Auditor General and Parliament, via the Portfolio Committee on Health, check, monitor as well as oversees the operational and strategic aspects of this regulator.

The CMS as regulator remains able to deliver on its mandate of protecting beneficiaries, regulating medical schemes, administrators and managed care organisations according to the MSA.

The CMS has an Acting Chief Executive and Registrar, Daniel Lehutjo, who has been at the helm supported by a fully functional team of executives and various technical experts in carrying out the organisation's mandate. The Acting Registrar's decisions, inspections, circulars and other directives carried out by various units within the CMS carry the same weight within the ambit of the MSA, hence the statements released during the past year that it is "business as usual" for the CMS.

The Council of CMS, followed a clear process and instituted an independent forensic investigation while the Minister of Health suspended the Registrar Dr Monwabisi Gantsho to allow for a proper investigation.

This was communicated to the industry and public at large. Sufficient time was given to the investigators, while details of the investigation was understandably not leaked to ensure the fairness of the process to all parties involved.

Recommendations from the investigation were eventually made that Dr Gantsho should face a disciplinary hearing. Adv. Cassim SC, who was appointed as an independent chairperson to chair the disciplinary hearing, made certain recommendations directed at achieving resolution of this matter outside of the formal disciplinary process, which would obviate the need for a full blown formal disciplinary hearing. This would however require both parties to agree to the recommendations made by Adv. Cassim SC. This was also communicated to the public at large. While the discussions between the parties continued, the Minister of Health recently communicated that Dr Gantsho's contract ending at the end of June will not be renewed.

Throughout this process the executives and other staff of the CMS focused entirely on the strategic and operational matters concerning delivering on the regulator's mandate.

"The CMS remains a regulator that methodically goes about to enforce the MSA, which is used as a yardstick, not only for the industry that it regulates but it is the very same measure by which its actions are often reviewed and judged," stated Lehutjo.

Reports, decisions and directives issued by the Registrar by way of the various CMS units, in particular the Compliance and Investigations, and Legal Units are often challenged. The legal challenges take place not only in the Appeals Committee and Appeal Board but are taken on review in the High Courts and Supreme Court of Appeals in the country.

This ever increasing judicial scrutiny places a great responsibility on the CMS to not only ensure procedural fairness but to prove to the courts that in each case alleged wrongdoers were treated fairly, given enough time to respond to accusations and that decisions were based on rationality, fairness and to the benefit of society. This may lead to investigations and inspections taking longer than some may wish to see, but it is necessary as far as proper and thorough investigations are concerned.

"The CMS has, as a result of monitoring trends gleaned from annual returns of schemes, through on-site inspections of administrators and managed care organisations or through investigations, research and monitoring, even by way of formal complaints from members and clinical observations instituted a number of measures to protect the interest of beneficiaries," explained Lehutjo.

"A collaborative approach is followed where such new circulars, guidelines and directives for industry are issued. Ample time is allowed for stakeholder input while concerted effort is always made to listen and incorporate such input to the benefit of industry and ultimately members of medical schemes," advised Lehutjo.

Amongst other ongoing interventions the CMS has introduced to the medical schemes industry, also looked at prescribed minimum benefits and how it is applied by medical schemes, governance of schemes, trustee remuneration, increasing member involvement in AGM's, developed quarterly and online statutory returns of schemes, guidance and actuarial motivations with justification to CMS for annual premium increases. Other recent and developing interventions include reducing the cost of non-healthcare expenditure, developing low cost benefit options and issuing communication guidelines to

help schemes to simplify communication to members as well as the accredited skills development training programme and further education of scheme trustees and brokers.

It is clear from these examples that the CMS as regulator does so much more than just wave a big stick at industry or is only involved in investigating indiscretions. The CMS is actively ensuring that medical schemes and related entities are truly acting in the interest of beneficiaries while also extending cover to more people.

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