

APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL SCHEMES

In the matter between:

FEDHEALTH MEDICAL SCHEME

Appellant

and

REGISTRAR OF MEDICAL SCHEMES

First Respondent

D

Second Respondent

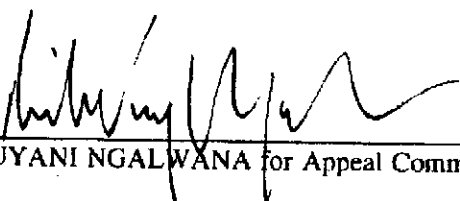
RULING

- 1 This is an appeal by the scheme against a ruling of the registrar in which it was directed to fund the Beta-interferon drug for the treatment of the member's husband's condition (multiple sclerosis).

- 2 The therapeutic algorithm for multiple sclerosis requires "Frequent relapse Secondary progressive" before the drug, beta-interferon can be considered. The member admits that seven years passed before the first relapse and two-and-a-half years passed before the second relapse of the member's husband.

- 3 There is a dispute between the parties as regards whether the algorithm requires evidence of both “frequent relapse” and “secondary progression”, or whether evidence of either will suffice for consideration of the drug. It is not clear from the plain text of the algorithm which of the two interpretations is correct. The scheme says according to medical definitions there can be no secondary progression without a relapse occurring. The member disputes this.
- 4 The member says her husband responds well to the drug. Thus, says she, it would be unethical now to take him off it in order to determine the time to the next relapse. While it has been submitted on her behalf that there is MRI evidence of secondary progression, the scheme says that secondary progression is a clinical diagnosis of deteriorating function and not a radiological one based on MRI changes. For that reason it cannot be relied upon as a measure of whether or not secondary progression has occurred.
- 5 On the facts of this case it is not necessary to decide whether or not both “frequent relapse” and “secondary progression” must be demonstrated before the drug can be considered. It is common cause that the member’s husband has had 2 relapses over a period of almost 10 years. That cannot reasonably be considered as being “frequent”.

- 6 As regards "secondary progression", the scheme has invited the member to submit evidence of this since none of the neurologists' reports refer to clinical progression. The member declined, saying sufficient evidence has already been submitted. Presumably this is reference to the MRI evidence because we have not been referred to any other. The scheme says this is not diagnostic evidence.
- 7 It is unfortunate that the member decided not to take up this invitation to clear up the issue of secondary progression.
- 8 In the circumstances, the appeal must succeed..



VUYANI NGALWANA for Appeal Committee

For the Appellant: K Caldis, B Taylor, D Lategan, Botha

For the 2nd respondent: D

Date of hearing: 30 April 2010
Date of Ruling: 11 May 2010