

APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL SCHEMES

In the matter between:

M

Appellant

and

DISCOVERY HEALTH MEDICAL SCHEME

Respondent

RULING

- 1 This is an appeal by the member against the scheme's refusal to fund a drug Tractocile on the ground that its use in the circumstances of this case is inappropriate and in any event inconsistent with evidence-based medicine. In correspondence to the member the registrar conveys his agreement with the scheme.

- 2 The member was admitted to hospital on 23 May 2009 with a pregnancy of 25 weeks with placenta praevia. Several doses of Tractocile were administered on her on 23 and 24 May 2009 (week 25), and again continuously from 26 May until 17 June 2009 (weeks 26 to 29). She was carrying twins.

3 The scheme, citing medical literature and the manufacturer's guidelines on the proper use of the drug, says the drug

3.1 should not be administered for pregnancies below 26 weeks and those over 33 weeks (The manufacturer's guideline says the reason for this is that "there was increased foetal mortality" where the drug was otherwise administered);

3.2 should not be continuously administered for more than 48 hours (presumably owing to similar concerns); and

3.3 should not be administered on patients with placenta praevia.

4 As regards multiple pregnancies and administration of the drug at less than 26 weeks (such as in this case), both the literature and the manufacturer's guideline say

"There is only limited clinical experience in the use of Tractocile in multiple pregnancies or the gestational age group between 24 and 27 weeks, because of the small number of patients treated. The benefit of Tractocile in these subgroups is therefore uncertain"

5 It is common cause that the member was 25 weeks pregnant at the time of administration of the drug for the first time. It is also common cause that the drug was administered continuously from week 26 to week 29 (instead of the maximum 48 hours recommended by the manufacturer). That the member presented with placenta praevia is also not in dispute.

6 Ms Van Wyk for the member asks this committee to compel the scheme to fund the drug either for the entire period that it was administered (at a cost of R97 689.16 according to her) or alternatively for the period of its administration from week 26 to week 29 (at a cost of R89 364.32 according to her).

7 The attempt on behalf of the member to get around the strictures by requiring, in the alternative, funding for weeks 26 to 29 is admirable. But the difficulty in relation to the 48 hour maximum, the placenta praevia, and the uncertainty of the drug's benefit in multiple pregnancies remains.

8 As pointed out above, administration of the drug is based on "*evidence-based medicine*". That is defined in regulation 15 to the Medical Schemes Act, 131 of 1998, as

"the conscientious, explicit and judicious use of current best evidence in making decisions about the care of beneficiaries whereby individual clinical experience is integrated with the best available external clinical evidence from systematic research"

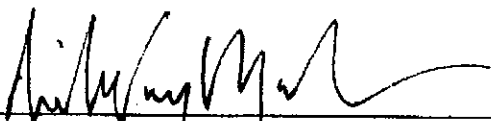
9 The literature referred to above seems to us to make up the "external clinical evidence" to which the definition refers. We cannot reasonably be expected, short of performing the same exercise that has produced the literature on which the scheme relies and reaching a contrary conclusion, to gainsay the available medical evidence. We cannot countenance dabbling in experimental medicine, when medical evidence seems to point the other way.

10 Ms Van Wyk says the member was never provided with the scheme's protocol and registered rules informing her of the strictures within which the drug must be administered. But, even if that were true, the drug was mal-administered contrary to the recommendations which have as their backbone the "*evidence-based medicine*". It was in any event a duty of the member to obtain the registered rules to which she subscribes. We cannot lawfully countenance an illegal use of a drug by default arising from the scheme's alleged failure to favour its member with a copy of the rules. If the scheme has so failed, the remedy for which Ms Van Wyk contends would far exceed the transgression committed.

11 Ms Van Wyk says the drug was administered by a qualified and registered gynaecologist, that it had immediate positive effect, that the 48 hours limitation is subject to the professional's discretion, that the drug was previously funded in relation to a similar case, and that the 25 week proscription must in the circumstances be condoned. While the rest of these submissions seek to move us to countenance experimental medicine (which we are not at large to do in light of available medical evidence), Ms Van

Wyk did concede that the previous case on which she relied as precedent was not similar after all.

12 In the result, the appeal cannot succeed.


VUYANI NGALWANA for Appeal Committee

For the Appellant: M

For the scheme: Dr Koch, Mr Wagner, Ms Saroop

Date of hearing: 30 April 2010

Date of Ruling: 11 May 2010