

**THE COUNCIL FOR MEDICAL SCHEMES
APPEAL COMMITTEE**

In the Appeal between:

A S

Appellant

and

DISCOVERY HEALTH MEDICAL SCHEME

Respondent

APPEAL RULING

1. On 10 December 2005 the Respondent offered to reinstate the Applicant's membership of the Respondent medical scheme on condition that the Respondent repaid the contributions that would have been payable had he remained a member on an uninterrupted basis from the date that he previously cancelled his membership. This would entail payment of an arrear amount of approximately R23 000,00
2. According to the Appellant he then asked whether there were any alternatives available to him. He was informed by the Respondent's consultant that he could apply for new membership, but that before the Respondent could

determine what contribution would be payable it would be necessary for him to undergo a medical examination..

3. On 21 December 2005 the Respondent supplied the Appellant with the medical documentation necessary for the medical examination in question.
4. The Appellant was away from the beginning of January to the 16th of January, and on his return he arranged for the required medical examination to be conducted on 20 January 2006.
5. On 22 February 2006 the Appellant received the Respondent's proposed conditions for membership. He considered them and found them to be less favourable than the reinstatement of membership offered to him in December 2005, and he consequently informed the Respondent's consultant that he would prefer to accept the original offer.
6. Thereafter the Respondent reverted to the Applicant telling him that the original offer had been withdrawn because it had been rejected, and was no longer open for his acceptance.
7. The sole issue to be determined in this appeal concerns whether, the Appellant, by asking the Respondent for alternatives to the reinstatement offered by it in

December 2005, rejected that offer, with the effect that he was not entitled at a later date, to purport to accept it.

8. The Respondent contends that the Applicant's conduct in requesting details of the alternatives available should be interpreted as a rejection of the initial offer. The Appellant contends that he gave no answer on the original offer, but merely requested information regarding alternatives so that he could make an informed decision as to whether to accept the offer or whether to accept some other offer that may have been preferable.

9. The offer made by the Respondent to the Applicant in December 2005 was not specified to be open for acceptance within a designated period of time. The question that then arises is whether it was accepted within a reasonable time. What constitutes reasonable time will depend on the circumstances of each case. Without any further action on the part of the Appellant, the acceptance of an offer in March 2006 that was made in December 2005 may be considered to be an unreasonable delay. However, in these circumstances the Appellant was not simply inactive during that period. The Appellant, having never expressly communicated his rejection of the original offer, asked for information which would enable him to consider alternatives. He did not delay in processing that information, and as soon as he was in a position to evaluate the respective

alternatives available to him, he communicated his acceptance of the more preferable alternative to the Respondent.

10. In the view of the committee there was no unequivocal rejection of the original offer by the Appellant and his acceptance of that offer in March 2006, when he was possessed of sufficient information to compare the alternatives available to him, was valid.
11. In the circumstances the committee cannot agree with the finding of the Registrar to the effect that the Appellant has declined the offer of reinstatement, and the Committee finds that that offer was timeously accepted.
12. The Respondent is therefore ordered to reinstate the Appellant's membership on the same terms as previously applicable to his membership, and with no penalty or exclusion, subject to the payment by the Appellant of arrear contributions from the date of the termination of his previous membership to the date of his acceptance of the offer of reinstatement, being March 2006. No arrear contributions are payable by the Appellant from March 2006 until the date of his readmission following this ruling.

DATED at JOHANNESBURG on this

day of SEPTEMBER 2007

P R JAMMY

For: Appeal Committee