

**THE COUNCIL FOR MEDICAL SCHEMES  
APPEAL COMMITTEE**

In the Appeal between:

**DISCOVERY HEALTH MEDICAL SCHEME**

Appellant

and

**H DL**

Respondent

---

**APPEAL RULING**

---

1. Having admitted the Respondent as a member with effect from 1 January 2006, the Appellant then terminated his membership during March 2006 and backdated the termination to the inception date.
2. The reason for the termination of membership was that the Respondent had failed to disclose that he suffered from hyperlipidaemia, for which he had been using chronic medication, most recently Adco-Simvastatin.
3. This non-disclosure was discovered by the Appellant in March 2006 when the Respondent applied for Adco-Simvastatin to be provided as a chronic medication.

4. Following the termination of the Respondent's membership, the Respondent applied to, and was re-admitted by, Medihelp Medical Scheme, to which he had belonged prior to joining the Appellant. However, Medihelp imposed a twelve month waiting period in respect of heart conditions (which waiting period has now expired). Medihelp also imposed a late joiner penalty which has the ongoing effect that the Respondent is required to pay higher premiums than would ordinarily be the case.
5. The Respondent lodged a complaint with the registrar in which he sought a ruling that the termination of his membership by the Appellant was wrongful, and consequently a ruling that he was lawfully a member of the Appellant until the date of his joining Medihelp. That ruling would mean that Medihelp would not be entitled to impose the late joiner penalty upon him.
6. The registrar ruled that the termination of the Respondent's membership by the Appellant had been wrongful. It ruled that the non-disclosure of hyperlipidaemia was not material in that had the condition been disclosed, the Applicant would, in any event, have been obliged to meet any costs associated therewith, since hyperlipidaemia and heart conditions fell within prescribed minimum benefits.

7. This committee has previously ruled that the test for the materiality of a disclosure does not depend on whether the condition to which it relates is a prescribed minimum benefit. This committee has found that medical schemes are entitled to full and reasonable disclosure of all medical conditions by prospective members because it is only with such information at their disposal that they can assess their overall exposure and liability to their members, determine the benefits that will be payable for non PMB conditions, and determine appropriate premiums.
  
8. In the current instance the Respondent disclosed his hyperlipidaemia to the consultant who assisted him in completing his application form. He thus considered the condition to be important enough to mention. However, according to him, the broker did not record the condition in the application form and it appears that the Respondent then signed the form without ensuring that it had been accurately completed.
  
9. Whilst this is yet a further instance where the brokers and consultants engaged by medical schemes are providing sub-standard and irresponsible service to prospective members, it nevertheless remains the responsibility of the applicant for membership of a scheme to ensure that his or her application form has been filled in completely and accurately.

10. The Respondent failed to do this, and must therefore bear responsibility for the non-disclosure of his condition.

11. In the circumstances the committee concludes that the Registrar erred in finding that the termination by the Appellant of the Respondent's membership is unlawful and unjustified, and finds that the Appellant's Appeal therefore succeeds.

DATED at JOHANNESBURG on this

day of SEPTEMBER 2007

---

**P R JAMMY**

**For: Appeal Committee**