

**THE COUNCIL FOR MEDICAL SCHEMES
APPEAL COMMITTEE**

In the matter between:

G J

Appellant

and

KWA-ZULU NATAL MEDICAL SCHEME

Respondent

APPEAL RULING

1. The Appellant is a member of the Respondent. Towards the end of December 2005 she became aware that she required certain dental treatment and contacted the Respondent to find out the extent of the benefits to which she was entitled.
2. She alleges that she was told by the Respondent that the applicable benefit for the year 2005 was R3450.00 and that for the year 2006 it would be R5800.00.
3. Accordingly, the Appellant split her dental treatment between December 2005 and January 2006.

4. The Respondent paid R3450.00 towards the Appellant's dental account for the treatment in December 2005, but paid only R1500.00 towards the treatment received in January 2006.
5. The Respondent's explanation for this is that the dental benefits for 2006 were subject to a maximum limit of R5800.00 per family, but were also subject to a sub limit of R1500.00 per beneficiary.
6. Since the Appellant was a single member of the scheme, she was not entitled to a full family benefit, but would be entitled only to the R1500.00.
7. The rules of a medical scheme constitute a contract between that scheme and its members. The rules are amended from year to year through the registration of new benefit schedules, which schedules form part of the rules, and hence the contract.
8. The primary responsibility lies with the member to familiarise himself or herself with the content of these rules.
9. In the absence of a recording of the telephone conversation in question, the appeal committee is unable to rule conclusively on whether or not a misrepresentation was made to the Appellant by an employee of the Respondent's administrator in December 2005. However, even if such a misrepresentation was made it would not be sufficient to create a

situation where the Respondent could be compelled to make a payment to the Appellant that goes beyond the provisions of its rules. The member has no entitlement to benefits that are not contained in the rules.

10. The registered rules and benefit schedule for 2006 clearly stipulates that the Appellant would, in these circumstances, be entitled to R1500.00 in respect of dental benefits. The Appellant could not in these circumstances claim a full family benefit, even though she is the only member of her family.
11. It would, however, be advisable if the Respondent were to word its benefit schedule in such a way that it was clearer that the sub limit applies both to an individual beneficiary and to a single member.
12. The effect of the foregoing is that whilst the appeal committee has sympathy for the position that the Appellant has found herself in, the Respondent cannot be compelled to pay for the benefits that she now seeks.
13. The appeal is consequently dismissed.

DATED AT JOHANNESBURG THIS DAY OF MARCH 2007

P R JAMMY
FOR: APPEAL COMMITTEE