

**THE COUNCIL FOR MEDICAL SCHEMES
APPEAL COMMITTEE**

In the matter between:

GENESIS MEDICAL SCHEME

Appellant

and

RCM

Respondent

APPEAL RULING

1. The Respondent complains that his medical scheme, the Appellant, has required him to fund medication received for treatment of his daughter's Bi Polar Mood Disorder out of funds available in the member's medical savings account, rather than funding such medication from the scheme's risk pool and treating it as medication for a prescribed minimum benefit.

2. For the purposes of this appeal the following can be taken to be common cause:
 - 2.1. The Respondent's daughter suffers from Bi Polar Mood Disorder;

- 2.2. Bi Polar Mood Disorder is listed on the Prescribed Minimum Benefits Chronic Disease List (“PMB CDL”) published by the council;
 - 2.3. Although the council has included Bi Polar Mood Disorders as a CDL, no therapeutic algorithm for that condition has been published by the Minister in the Government Gazette.
 - 2.4. Bi Polar Mood Disorder can be treated either as a mental illness or as a chronic condition.
3. The obligation on schemes to meet the costs of providing prescribed minimum benefits from their risk pools, which is created in terms of section 29 (1) (o) of the Act, is not unqualified.
4. It has been contended by the Appellant, and accepted by the Registrar, that where there is no therapeutic algorithm published there is no obligation on the scheme with regard to a particular item on the CDL.
5. The scheme is therefore correct to contend that if the Respondent’s daughter’s condition constituted a chronic condition then it would only have been liable for medication as a deductible benefit in terms of the CDL if a therapeutic algorithm for a condition had been published by the Minister.

6. If the dependant's condition constituted a mental illness, then likewise the Appellant is not liable for the cost of medication because the treatment prescribed for a member or dependant with Bi Polar Mood Disorder who is treated on an out patient basis (as was the case with the Respondent's daughter) contemplates fifteen contacts for psycho-therapy only.

7. It is, undoubtedly, inequitable that the Respondent's daughter can find herself with a condition that is included in the CDL, but in respect of which the treatment is not covered by the PMBs. That inequitable situation has arisen however, not as a result of the Appellant's actions but as a result of the shortcomings of the Minister in failing to publish a therapeutic algorithm in respect of Bi Polar Mood Disorder as a chronic condition.

8. The prescribed minimum benefits and the chronic disease list is intended to provide protection to members and their dependants for conditions and illnesses which the Registrar and council have determined should not be excluded by any scheme from their risk pool. Including a condition or illness in this list but then not ensuring that a therapeutic algorithm is published in respect of that condition offers members and their dependants no protection whatsoever. In fact, the illness or condition might just as well be excluded from the list.

9. If the Minister intends to give effect to what is contained in the PMBs and CDLs it is essential that therapeutic algorithms be published, so that the

schemes then become obliged to provide treatment in accordance with such algorithms.

10. In the circumstances the appeal committee has no option but to uphold the appeal. The fault in this case lies not with the Appellant but with the Minister, and the committee urges that steps be taken without delay to ensure that a therapeutic algorithm in respect of this condition, and any other condition in respect of which no algorithm has yet been published, is published without undue delay.

DATED AT JOHANNESBURG THIS DAY OF MARCH 2007

P R JAMMY
FOR: APPEAL COMMITTEE