

**THE COUNCIL FOR MEDICAL SCHEMES**

**APPEAL COMMITTEE**

In the matter between:

**SB**

Appellant

and

**OXYGEN**

Respondent

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**APPEAL RULING**

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1. The Appellant contests the decision by the Respondent not to meet the costs of a bilateral sagittal split osteotomy required by his wife. The Appellant's wife had received orthodontic treatment since 2004, which had been self-funded as it was not covered by the benefits available to the Appellant.
2. The orthodontist in question has recommended the further surgical procedures referred to above, and the Appellant has requested authorisation from the Respondent, which authorisation has been refused.
3. The basis for the refusal is that the procedure in question would be fundable only from day-to-day benefits or a personal savings account, and the Appellant's membership option contains neither of these facilities.
4. The Respondent's communications with the Appellant leave much to be desired. They make reference to a number of extraneous considerations that

has no bearing on the legality of their decision and that were, in the opinion of the Appellant, offensive. The Appellant's dissatisfaction in this regard may well have some merit.

5. Nevertheless the obligation on the Respondent to meet the costs of the procedure in question depends on the Respondent's rules and the provisions of the applicable benefit option.
6. The Appellant has chosen the option known as the "Core Plus Option". The Respondent's registered rules for the year 2006 read with the applicable table of benefits exclude advanced dentistry and orthodontic treatment.
7. As the proposed procedure falls within these categories, by application of the rules, the Respondent is not obliged to meet the costs thereof. The rules of the fund and the Benefit Tables constitute a contract between a scheme and its members, and determine the obligations and rights of the parties. The Respondent cannot be compelled to provide benefits to a member for which no provision is made in its rules and benefit tables.
8. The consequence for the foregoing is that the appeal must fail.

DATED at JOHANNESBURG this 30<sup>th</sup> day of MAY 2007

P R JAMMY  
Member  
Appeal Committee