

**THE COUNCIL FOR MEDICAL SCHEMES  
APPEAL COMMITTEE**

In the matter between:

**GENESIS MEDICAL SCHEME**

Appellant

and

**PL**

Respondent

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**APPEAL RULING**

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1. On 10 July 2003 the Respondent went to see his medical practitioner, Doctor X, because he was, in his words, feeling dreadful.
  
2. His doctor observed that his blood pressure and blood sugar were raised, but did not express particular concern. In the Respondent's discussions with his doctor it was decided that the most likely cause of his condition was stress, and he was advised to lose some weight and to exercise more. He followed this advice and felt much better.
  
3. The Respondent then applied to join Genesis Medical Scheme on 20 October 2005.

4. In February 2006, during an unrelated procedure, it was noticed that the Respondent's sugar levels were raised, and he was advised to speak to his doctor.
5. He visited Doctor X in March 2006, and was diagnosed as a diabetic.
6. When the Appellant became aware of this diagnosis, they conducted certain investigations and took a decision to terminate the Respondent's membership as a result of what they considered to be a non-disclosure of a chronic condition existing at the time that he applied for membership.
7. The Appellant's letter to the Respondent of 18 August 2006 makes it clear that they were acting on the belief that the Respondent had been officially diagnosed as a diabetic on 10 July 2003, and had failed to disclose this diagnosis.
8. In fact, that assumption by the Appellant was incorrect.
9. It was the uncontested evidence of the Respondent that he had not been diagnosed as a diabetic at his first consultation with Doctor X in July 2003.
10. The notes received by the Appellant from Doctor X (p22 of the record) which contain the word '*diabetes*' against the entry for 10 July 2003 are

not conclusive of the fact that the diagnosis was made on that date. Not only is there no indication that that note was made contemporaneously with the consultation, but there is furthermore no evidence that, even if it was, the diagnosis was conveyed to the Respondent in those terms.

11. At the appeal hearing the Appellant's representative contended that even in the absence of a formal diagnosis of diabetes in 2003 the Appellant was entitled to terminate the Respondent's membership. This, according to the Appellant, was because the Respondent had given an incorrect answer to question 5 of the section dealing with Medical History in the Genesis membership application form.
12. That form requires an applicant for membership to indicate if he or his dependants have, in the last ten years, experienced '*diabetes, sugar in the blood, or urine, glandular disorder, or any related endocrine disorder*'.
13. The Appellant contends that because the Respondent's blood sugar was found to be raised during his consultation with Doctor X in July 2003, he ought to have disclosed this fact when answering the above question.
14. The appeal committee rejects this contention for two reasons. Firstly, if the Respondent's evidence is to be accepted, Doctor X placed much more emphasis on the raised blood pressure that he discovered during that consultation, and treated the Applicant's condition as being a

temporary one resulting from a particular period of stress. There was nothing in that diagnosis or discussion that would have alerted the Respondent to the need, some two years later, to disclose high blood sugar as a condition when applying for membership of medical scheme. His failure to do so, cannot, in those circumstances, have been considered to have been material.

15. The second reason for rejecting this contention is the fact that this alleged non-disclosure was not the basis for the Appellant's decision to terminate the Respondent's membership. The Appellant acted on the belief that the Respondent had actually been diagnosed as a diabetic in July 2003. That belief was misplaced. There is nothing before the appeal committee to indicate that the Appellant would have taken the same decision had it known that this diagnosis had not been formally made or communicated, and that all that had been detected was a temporary spike in the Respondent's blood sugar.
16. In the circumstances the appeal committee finds that there was no basis upon which the Appellant could, legitimately, have terminated the Respondent's membership.
17. The Appellant is therefore ordered to reinstate the Respondent's membership with immediate effect, and to back-date such reinstatement to the date of termination, with payment of all benefits that would have been due to the Respondent had such membership not been terminated.

DATED AT JOHANNESBURG THIS      DAY OF MARCH 2007

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P R JAMMY  
FOR: APPEAL COMMITTEE