

THE COUNCIL FOR MEDICAL SCHEMES APPEAL COMMITTEE

In the Appeal between:

THEBEMED MEDICAL SCHEME

Appellant

and

T S

Respondent

APPEAL RULING

1. The Respondent, who is the credit controller at the Limpopo MediClinic, acts in this dispute on behalf of a member of the Appellant, Mr G
2. The dispute arises out of the refusal of the Applicant to pay for the full costs of hospitalisation for treatment of acute pancreatitis suffered by Mr G, which resulted in his hospitalisation between 11 September 2006 and 26 October 2007.
3. The basis for the Appellant's refusal to pay these expenses in full arises from the results of a Liver Function Test (LFT) which, according to the Appellant, indicated the cause of the member's

pancreatitis to be alcohol abuse. The Appellant relied on the exclusions listed in its rules, which exclude "*expenses incurred due to wilful self-injury, professional sport, speed contests or speed trials*".

4. The Appellant contends that alcohol abuse constitutes wilful self-injury and that it is therefore not obliged to meet expenses incurred as a result thereof.
5. Acute pancreatitis is a Prescribed Minimum Benefit (PMB) condition as defined in annexure "A" to the regulations promulgated in terms of the Medical Schemes Act, 131 of 1998.
6. In terms of Regulation 8, the Appellant is obliged to pay in full, without co-payment or the use of deductibles, the diagnosis, treatment and care costs of the PMB conditions.
7. The obligation contained in Regulation 8 cannot be overridden by the terms of a scheme's rules.
8. Thus the list of exclusions included in the Appellant's rules cannot seek to exclude full payment for treatment and care of a

PMB condition, regardless of whether such condition arose from wilful self-injury as alleged by the Appellant in this particular dispute. It is presumably for this reason that the Registrar endorsed the Appellant's exclusion list to record that the exclusions were subject to the Prescribed Minimum Benefit requirements.

9. It should be noted that the treatment of abuse or dependence on psycho-active substances, including alcohol, is itself a PMB condition notwithstanding the fact that that condition is generally self-inflicted.

10. Whilst the Appeal Committee is mindful of the fact that the Appellant is seeking to manage its risk, particularly as it operates at the lower end of the medical scheme market, the method that it has sought to adopt in order to do so is not one that is permitted by the Act. Whilst risk management may be achieved through the type of treatment offered, it cannot be achieved through the exclusion of the treatment of prescribed minimum conditions.

11. In the circumstances the ruling of the registrar to the effect that the Appellant is obliged to settle Mr G's hospital account in the amount of R227 412.21, with no co-payment being charged to the member or beneficiary, is upheld; and the Appellant's appeal is consequently dismissed.

DATED at JOHANNESBURG on the day of JANUARY 2008

P R JAMMY

For: Appeal Committee