

In the matter between:

**POLMED**

**Appellant**

and

**M L**

**Respondent**

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**DECISION OF THE APPEAL BOARD**

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1. N Mabunda and T Mabunda are the minor daughters of Inspector S Mabunda and M L the Respondent in this Appeal who presently uses her previous surname of
2. Inspector Mabunda, who was a member of the Appellant Medical Scheme, died on 30 December 2002. He at the date of his death, unbeknown to the Appellant, was divorced from the Respondent. They were divorced on 7 October 1999 but did not inform the Appellant of this fact.
3. On the death of Inspector Mabunda his sister, acting on behalf of the two minor children, caused them to be registered in terms of Rule 6.4.4 of the Appellant's rules which read:

"Where a child dependant/s has been orphaned; the youngest child may elect to be registered as the member and any remaining dependant the child dependant/s."

4. In the application for membership, the postal address for the children was given as P O Box 2995, Siyabuswa, 0472, which was the address of the deceased's sister.
5. Thereafter no contributions were paid despite letters having been sent to the above address informing the member of the fact that she was in arrears and thereafter that her membership had been terminated.
6. When the Respondent learned of the fact that the children's membership of the Appellant had been terminated, she applied for them to be reinstated but the application was refused by reason of the fact that the Appellant's rules provided that such reinstatement could only take place if applied for within twelve months of the termination date and the application was brought more than twelve month after the termination of membership.
7. The Appeal Committee of the Council for Medical Scheme on the 19<sup>th</sup> May 2008 ordered the Appellant to reinstate the minor children as members of the scheme on the basis that the Appellant had been "the author of its own misfortune". The Committee stated:


"The whole mess could have been avoided if the Appellant had taken the trouble to find out where the continuation member lives. It would then have discovered that she lives with her mother and elder sister and sent all correspondence there."
8. The Appellant has appealed against the above order contending that it acted within its rules and used the postal address which had been furnished to it the address to which it sent all correspondence. It submitted that no duty rested upon it to trace the whereabouts of a continuation member when a postal address had been furnished to it and it had no reason to believe that such address was not correct. We agree with the submission and accordingly find the reasoning of the Appeal Committee to be incorrect.


9. We accordingly make the following order:

The Appeal is upheld and the ruling made by the Appeal Committee is set aside

THUS DONE AND SIGNED at JOHANNESBURG this 4<sup>th</sup> day of May..... 2009

  
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L I GOLDBLATT  
CHAIRMAN

  
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for DR S M PILLAY  
MEMBER OF THE BOARD

  
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for D TERBLANCHE