

APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL SCHEMES

In the matter between:

S

Appellant

and

REGISTRAR OF MEDICAL SCHEMES

First Respondent

DISCOVERY HEALTH MEDICAL SCHEME

Second Respondent

RULING

- 1 This is an appeal by the member against a ruling of the registrar in which he found that the scheme was correct in taking the view that the member's condition ("chest pains" after a golf game) was not a prescribed minimum benefit condition.

- 2 The member contends that his condition was potentially an emergency medical condition. He says he was put through an ECG not once but twice, indicating that "*something far more serious was suspected*" than just "*chest pains*". The treating doctor's notes confirm that it was necessary to exclude

myocardial infarction as a cause of the chest pain. It is common cause that the diagnosis detected no coronary problems.

3 This case raises a difficult enquiry. When is a medical condition to be classified as an emergency? Is mere "*suspicion*" of the seriousness of the condition enough, or must one await the *ex post facto* diagnosis and only then make a pronouncement on whether or not the condition was sufficiently serious to warrant emergency treatment? In light of the definition of "*emergency medical condition*" in regulation 7, these are difficult questions because the definition begs the very question it should be answering.

4 The Act, in regulation 7, defines "*emergency medical condition*" as

"the sudden and, at the time, unexpected onset of a health condition that requires immediate medical or surgical treatment, where failure to provide medical or surgical treatment would result in serious impairment to bodily functions or serious dysfunction of a body organ or part, or would place the person's life in serious jeopardy"
(emphasis supplied)

5 There are numerous elements to this definition.

5.1 First, there must be an onset of a health condition.

5.2 Second, the onset of the health condition must be sudden and unexpected.

5.3 Third, the health condition must require immediate medical or surgical treatment.

5.4 Fourth, the health condition must be of such a nature that, if not treated (immediately), one of three things would result, namely:

5.4.1 Serious impairment to a bodily function, or

5.4.2 Serious dysfunction of a body part or organ, or

5.4.3 Death

6 There can be no doubt that “chest pain” is a health condition. It can also not be disputed (and the scheme has not disputed) that its onset was sudden and unexpected. But the enquiry that the definition begs is whether the chest pains required immediate treatment failing which the member would either die, or lose the function of a body part or lose a bodily function.

7 In this case, this latter enquiry was answered only after diagnosis of the problem. On the member’s version, the diagnostic tools used appear to have been ECG and blood tests. It appears that no treatment became necessary. Thus, it seems that the member requires the scheme “*to pay the bill for the blood tests*”. He does not require payment for “*treatment*”.

8 On a plain reading of the definition, it appears to countenance payment for treatment of the health condition. The member does not say he was treated for his chest pains. He says blood tests were taken and he was put through ECG twice. But these are diagnostic measures not covered by the definition. The member’s condition would have qualified as an emergency medical condition if the definition had read something like (additions are in square brackets):

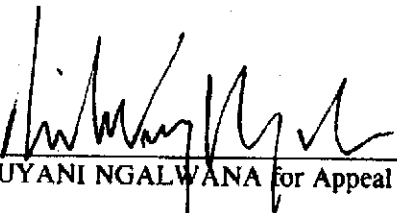
“the sudden and, at the time, unexpected onset of a health condition that requires immediate medical [assessment] or surgical [medical or] treatment, where failure to provide medical [assessment] or [medical or] surgical treatment would result in serious impairment

to bodily functions or serious dysfunction of a body organ or part, or would place the person's life in serious jeopardy”

9 In our view, had the member been treated for the chest pains, he would have been entitled to claim the cost of that treatment because it cannot reasonably be contended that a health condition is an emergency only if a diagnosis says so. The diagnosis may come too late for any treatment to save a person's life or bodily function or use of a body part.

10 We are not suggesting that an emergency medical condition arises in all cases where the member or beneficiary and attending medical staffs merely “suspect” that his or her life is in serious jeopardy. Each case must be considered on its own merits and its own circumstances.

- 11 The appeal fails not because the member's condition is not an emergency medical condition but because what he claims for (diagnostic costs) is not countenanced by the definition.



VUYANI NGALWANA for Appeal Committee

For the Appellant: Mr S

For the 2nd respondent: Wagner, Saroop, D Koch

Date of hearing: 30 April 2010

Date of Ruling: 11 May 2010