

APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL SCHEMES

In the matter between:

V

Appellant

and

REGISTRAR OF MEDICAL SCHEMES

First Respondent

MEDIHELP

Second Respondent

RULING

- 1 This is an appeal by the member against a ruling of the Registrar in which he found that the scheme had acted properly in terms of its rules and the Medical Schemes Act, 131 of 1998 ("the Act"), in refusing to fund the member's hip replacement procedure as a prescribed minimum benefit.
- 2 In July 2004 the member's wife had a hip replacement following the fracture of her hip. The scheme paid for this in full as it was a prescribed minimum

benefit condition under code 178H. On that occasion the top part of her hip was replaced with a prosthetic.

- 3 Between January 2008 and April 2009 the member's wife's hip dislocated on three occasions. The member says on the first occasion in January 2008 his wife fell in the house and her head missed a table by millimetres. The second time, in September 2008, she fell in a shop on her head as if she had been shot. On the third occasion, in April 2009, she was standing in the bathroom and fell between the shower and the toilet bowl, her head narrowly missing the toilet bowl. On each occasion the treatment was reduction and relocation of the hip. He says on each occasion she could have died. That ever-present danger of death from a fall, says the member, makes her condition an "*emergency medical condition*" within the meaning of the regulations to the Act and therefore a prescribed minimum benefit.

- 4 On the third occasion a Specialist Orthopaedic Surgeon opined that the only solution was to do a total hip replacement. He said it was "*absolutely useless to continuously reduce this hip*" as the procedure involved anaesthetic, surgical and hospitalisation expenses on each occasion. It appears that the suggestion was that a total hip replacement would take care of this problem once and for all.

- 5 The scheme's position is that a hip replacement procedure can only be funded if it qualifies as a prescribed minimum benefit condition under code

178H. While it does not deny that this is an emergency medical condition, it avers that it has provided the appropriate treatment for the condition.

6 When considering whether or not the member is entitled to have the scheme fund his wife's hip replacement in the circumstances of this case, it is useful to deal with each of the following questions:

6.1 Is her condition an emergency medical condition?

6.2 Is it a prescribed minimum benefit condition?

6.3 Is the treatment sought countenanced by the rules of the scheme?

Is it an emergency medical condition?

7 The Act defines an emergency medical condition in regulation 7 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”

8 The definition seems to countenance a health condition that is sudden and unexpected. A dislocation of the limb bone is generally sudden and unexpected. But it is not the dislocation of the hip that places life in serious jeopardy. It is the act of falling. That act of falling is not a health condition.

- 9 In any event, even if this were an emergency there is no *“failure to provide medical treatment”* in this case. The scheme has on each occasion of the onset of the hip dislocation provided medical treatment in the form of a reduction and relocation of the hip. On the member’s own version, two Orthopaedic Surgeons (including the one who now recommends that a total hip replacement is the only sensible treatment) were satisfied with the results.
- 10 This is not an emergency medical condition. Even if it were, appropriate medical treatment (as explained below) has been provided in terms of the Act.

Is it a prescribed minimum benefit condition?

- 11 Prescribed minimum benefit condition is defined in the Act as

“a condition contemplated in the Diagnosis and Treatment Pairs listed in Annexure A or any emergency medical condition”

- 12 The Act lists 270 medical conditions together with the requisite treatment for each. It also lists 26 chronic conditions with therapeutic algorithms for the treatment of each. Each of these medical conditions and chronic conditions is a prescribed minimum benefit condition for the treatment of which schemes must pay in full subject to rules-based and clinical management-based programmes, protocol and managed health care as defined in the regulations.

- 13 The member's wife's condition is also not one of the 26 chronic conditions listed in the regulations. Thus the therapeutic algorithms do not apply in this case.
- 14 It is common cause that the condition in issue is a prescribed minimum benefit condition. The condition of the dislocation of a limb bone is listed under code 902H and its proposed treatment is reduction or relocation. This is the treatment that the scheme has provided. A hip replacement is treatment for a fractured hip. That condition is listed under code 178H. It is common cause that the hip has not fractured but has dislocated. In the circumstances, the scheme was correct in providing treatment of relocation and reduction under code 902H.

Is the cost of hip replacement countenanced by the scheme rules?

- 15 The short answer is no. The member joined the Dimension Elite option which provides for funding of R11 100 per incident for hospitalisation and prosthetic costs.

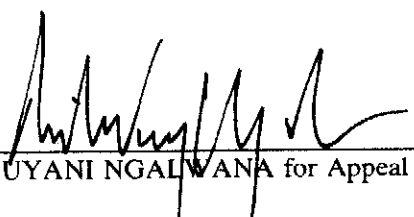
Managed Health Care and Other Considerations

- 16 When regard is had to considerations of managed health care which is central to the funding of health care under the Act, it seems that the treatment of reduction and relocation of the hip every time it dislocates may not be cost-

effective and efficient. This is the point that the Specialist Orthopaedic Surgeon makes in recommending a total hip replacement even though the condition in question does not fall under code 178H. It also does not seem reasonable to put a 73 year old woman through the pain and inconvenience of a relocation of the hip every time it dislocates.

17 This aspect was, however, not explored before us and so we are unable to make a finding on it.

18 In the circumstances, the scheme is directed to make further written submissions on the appropriateness, efficacy, efficiency and cost-effectiveness of a reduction and relocation treatment instead of a hip replacement in the circumstances of this case. This the scheme is required to do within 5 days of this ruling. The member is free to direct counter-argument to the registrar within 5 days of receiving the scheme's written submissions. A final ruling will then be made.


VUYANI NGALWANA for Appeal Committee

19 April 2010

For the Appellant:

M 

For the 2nd respondent:

E  D  F 

Date of hearing:
Date of Ruling:

31 March 2010
12 April 2010

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