

**IN THE APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL
SCHEMES**

In the matter between:

██████████ W

Appellant

and

REGISTRAR FOR MEDICAL SCHEMES

Respondent

RULING

- 1 In this appeal the appellant wants Discovery Health Medical Scheme to pay the doctors' bills that it had reversed because of an alleged failure by him to disclose an Irritable Bowel Syndrome condition of which he, according to the scheme, had been diagnosed and treated prior to joining the scheme. Because of this alleged non-disclosure, not only did the scheme reverse payment of doctors' accounts, it also terminated his membership in November 2007. The appellant does not want his membership re-instated.

- 2 The scheme bases its decision on two medical reports, one by a Doctor ██████████ in 2005 and another by a Doctor ██████████ in August 2007. It says doctor

██████ diagnosed the appellant with irritable bowel syndrome in 2005 when he complained about abdominal pain, and that he subsequently saw doctor ██████ about constipation or bowel obstruction.

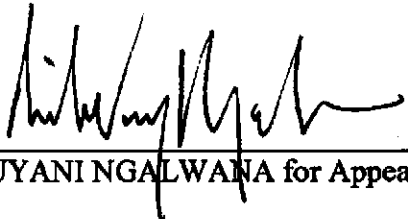
3 The appellant denies that he has ever been diagnosed with irritable bowel syndrome. He says doctor ██████ far from diagnosing him with the condition, in fact found that he did not have the condition.

4 The registrar found that the appellant had failed to disclose the condition to the scheme and that in the circumstances the scheme acted lawfully in terminating his membership.

5 According to doctor ██████ in a letter dated 9 December 2008, he consulted with the appellant not in 2005 but twice in February 2007 and “made a working diagnosis of an irritable bowel syndrome”. His report (erroneously dated 2005) shows a diagnosis of irritable bowel syndrome. It also reflects a telephone number of doctor ██████ at which the authenticity of the report can be verified. Doctor ██████ himself diagnosed him with “constipation – bowel obstruction”.

6 One of the medical questions asked of the appellant in his application form for membership of the scheme was whether he had ever experienced, been treated for or was then suffering from gastro-intestinal symptoms, conditions or disorders. To that he answered in the negative. Irritable bowel syndrome is evidently a gastro-intestinal condition which should have been disclosed.

7 In the result, the appeal cannot succeed.



VUYANI NGALWANA for Appeal Committee

For the Appellant:

██████████

For the Respondent:

Mr A Mavuso

For Discovery:

Mr Wagner; Ms Saroop; Dr Asswald; Dr Mohammedy

Date of hearing:

09 March 2009

Date of Ruling:

21 April 2009