Guideline for the preparation of managed care agreements in compliance with Regulations 15, 15A, 15E, 15F and 15J, and the managed care accreditation standards

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1. OVERVIEW

The Medical Schemes Act, 1998 (Act no 131 of 1998) ("the Act") and the Regulations thereto ("the Regulations") provide for the requirements of providing managed care to medical schemes. One of the requirements in respect of managed care arrangements between medical schemes ("schemes") and managed care organisations ("MCOs") is that there must be a written agreement that regulates the relationship and which must be duly signed by authorised persons from both parties. This includes all amendments thereto.

A comprehensive, and properly drafted managed care agreement ensures that both parties are fully aware of their rights and obligations in terms of the agreement. It also assists both parties in the identification and resolution of any disputes with regards to the execution of the agreement.

2. REGULATORY REQUIRMENTS

Listed below are the specific requirements in respect of managed care arrangements which are prescribed but which are also deemed to be essential and appropriate for inclusion in each managed care agreement:

2.1. Regulations 15A, 15E, 15F and 15J

Below is a list of the requirements as per the Regulations to the Act:

Reference	Requirement
Reg 15	Definitions –""capitation agreement" means an arrangement entered into between a medical scheme and a person whereby the medical scheme pays to such person a pre-negotiated fixed fee in return for the delivery or arrangement for the delivery of specified benefits to some or all of the members of the medical scheme"
Reg 15	Definitions – • ""managed health care" means clinical and financial risk assessment and management of health care, with a view to facilitating appropriateness and cost-effectiveness of relevant health services within the constraints of what is affordable, through the use of rules-based and clinical management-based programmes" • ""managed health care organisation" means a person who has contracted with a medical scheme in terms of regulation 15A to provide a managed health care service" ""evidence-based medicine" means the conscientious, explicit and judicious use

Reference	Requirement
	of current best evidence in making decisions about the care of beneficiaries whereby individual clinical experience is integrated with the best available external clinical evidence from systematic research" • ""capitation agreement" means an arrangement entered into between a medical scheme and a person whereby the medical scheme pays to such person a pre-negotiated fixed fee in return for the delivery or arrangement for the delivery of specified benefits to some or all of the members of the medical scheme" • ""rules-based and clinical management-based programmes" means a set of formal techniques designed to monitor the use of, and evaluate the clinical necessity, appropriateness, efficacy, and efficiency of, health care services, procedures or settings, on the basis of which appropriate managed health care interventions are made"
Reg 15A	"Prerequisites for managed health care arrangements – (1) If a medical scheme provides benefits to its beneficiaries by means of a managed health care arrangement with another person – (a) the terms of that arrangement must be clearly set out in a written contract between the parties; (b) with effect from 1 January 2001, such arrangement must be with a person who has been granted accreditation as a managed health care organisation by the Council; and (c) such arrangement must not absolve a medical scheme from its responsibility towards its members if any other party to the arrangement is in default with regard to the provision of any service in terms of such arrangement."
Reg 15E	"Provision of health services – (1) If managed health care entails an agreement between the medical scheme or a managed health care organisation, on the one hand, and one or more participating health care providers, on the other – (a) the medical scheme is not absolved from its responsibility towards its members if any other party is in default to

Reference	Requirement
	provide any service in terms of such contract; (b) no beneficiary may be held liable by the managed health care organisation or any participating healthcare provider for any sums owed in terms of the agreement."
Reg 15F	"Capitation agreements – A medical scheme shall not enter into a capitation agreement, unless – (a) the agreement is in the interests of the members of the medical scheme; (b) the agreement embodies a genuine transfer of risk from the medical scheme to the managed health care organisation; (c) the capitated payment is reasonably commensurate with the extent of the risk transfer."
Reg 15J	"General provisions – (1) Any managed health care contract, contemplated in Regulation 15A, must require either party to give at least 90 days notice before terminating the contract, except in cases of material breach of the provisions of the contract, of where the availability or quality of health care rendered to beneficiaries of a medical scheme is likely to be compromised by the continuation of the contract."

2.2. Managed care accreditation requirements (Managed care accreditation standards – Version 4)

Standard reference	Standard description / requirement
1.3.1	Signed agreements exist for all medical schemes to which managed care services are provided.
1.3.2	The agreement clearly confirms the applicant and medical schemes as contracting parties.
1.3.3	The agreement confirms the scope and duties of the organisation for each specific scheme.
1.3.4	The agreement contains full details of fees payable by the medical scheme including determination and payment thereof.
1.3.5	Fees are specified per individual service provided.

Standard reference	Standard description / requirement
1.3.6	The agreement provides for measures to ensure confidentiality of beneficiaries' information.
1.3.7	The agreement provides for the right of access by the medical scheme to any treatment record held by the managed care organisation or health care provider and other information, data and records pertaining to the diagnosis, treatment and health status of the beneficiary in terms of the agreement subject to disclosure of such information in compliance with Regulation 15J(2)(c).
1.3.8	Provision is made in the agreement for the duration thereof.
1.3.9	Termination arrangements are clearly defined in the agreement.
1.3.10	The agreement provides for a formal mechanism which deals with disputes between the contracting parties.
1.3.11	The agreement provides for a formal mechanism which deals with member complaints/disputes and appeals against the organisation which may be lodged with the scheme concerned and does not prevent the complainant from lodging complaints/disputes and appeals to the Council.
1.3.12	Provision is made in the agreement that if managed care services are sub-contracted by the organisation to another managed care organisation, such other organisation must be duly accredited as a managed care organisation by the Council.
1.3.13	Provision is made in the agreement that if managed care services are sub-contracted by the organisation to another provider, no beneficiary may be held liable by the managed care organisation or any participating health care provider for any sums owed in terms of the agreement in compliance with Regulation 15E(b).
1.3.14	The agreement includes a detailed service level agreement which contains details of the services to be provided, agreed upon service levels, performance measures, and relating penalties/remedies available to the parties in the case of non-performance.
1.3.15	All amendments to the agreement, including fee adjustments for the current year, are in writing and signed by the parties.
1.4.1	The agreement constitutes a bona fide transfer of risk from the medical scheme to the managed care organisation.
1.4.2	The agreement provides for a capitation based payment which is reasonably commensurate with the extent of the risk transferred.

3. GENERAL CONSIDERATIONS

- The managed care agreements should be comprehensive, well written and clear.

- The agreement should be between the direct contracting parties only. Should any other party, such as the administrator of the medical scheme, be a party to the contract it should only be in the role of facilitator to in order to give effect to the implementation of the agreement between the medical scheme and managed care organisation.

- Medical schemes must apply their minds when contracting with a managed care organisation in terms of the managed care services contracted for and the relating managed care fees.

- The managed care agreement must be in the interest of the medical scheme's beneficiaries at all times.

- The full names and designations of the persons signing the agreements on behalf of the contracting parties must be clearly indicated.

- Each party should retain copies of the signed agreements at their registered offices.

- Services included and the terms of the agreement must be in accordance with the regulatory requirements and registered rules (including the benefit tables) of the relevant medical scheme.

- The contracting parties must ensure that the services contracted for meet the definition of "managed care" as defined. Other services may be contracted for, provided that it is a) in a separate non-managed care agreement, or b) it is clearly stated as non-managed care services in the agreement.

- Regular reporting on the managed care organisation's performance in terms of the agreement and the detailed service level agreement should be provided to the medical scheme on a regular basis.

- The medical scheme must ensure that the managed care organisation is executing the terms of the agreement as set out therein, and that it continuously demonstrates its value added proposition.

- Pricing of the contracted fees in respect of services are required to be broken down per service or logical group of services.