

IN THE COUNCIL FOR MEDICAL SCHEMES APPEALS COMMITTEE
(PRETORIA)

In the matter between:

R

Appellant

and

REGISTRAR OF MEDICAL SCHEMES

First Respondent

IBM SA MEDICAL SCHEME

Second Respondent

RULING

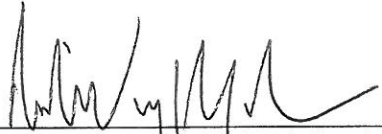
1 This is an appeal in terms of section 49 of the Medical Schemes Act, 131 of 1998 (“the MSA”) against a ruling of the registrar of medical schemes (“the registrar”) in which it was found that the scheme cannot be held liable for the employer’s failure to meet its contractual obligations to employees. There does not seem to be an issue about lateness of filing the appeal. The ruling is dated 30 March 2012 and the appeal is dated 2 days before the ruling, 28 March 2012. At least one of these dates is incorrect.

2 In his complaint the appellant alleged that “*IBM South Africa undertook to provide [him] and [his] spouse with Medical Aid at no cost for the rest of*

[their] lives". When there was a shortfall in that funding, the appellant sought relief that *"IBM South Africa should be required to meet the shortfall"*.

3 In his appeal he says the scheme (the IMB South Africa Medical Scheme) is *"an integral part of IBM South Africa"* and so must be held liable for the shortfall. In our view this cannot be countenanced. The scheme is a separate entity from the employer. The undertaking was made by the employer. On the appellant's own version he sought relief against the employer and not against the scheme. It would in any event not have been competent to seek relief against the scheme on these facts.

4 In the result, the appeal cannot succeed.

 12 DECEMBER 2012
 VUYANI NGALWANA for Appeal Committee

<i>For the appellant:</i>	<i>A.</i>
<i>For the scheme:</i>	<i>T Turton; S Yacoob; Eksteen</i>
<i>For the registrar:</i>	<i>M Mashilo</i>
<i>Date of hearing:</i>	<i>16 November 2012</i>
<i>Date of Ruling:</i>	<i>10 December 2012</i>