

Medical Schemes Act Amendment: COVID-19 declared a PMB

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Pursuant to a circular published by the Council of Medical Schemes ("the CMS") on 26 March 2020 ("the Circular"), declaring COVID-19 a prescribed minimum benefit, as that term is defined in the Medical Schemes Act No. 131 of 1998 ("the MSA"), the Minister of Health has amended the MSA to align with the Circular ("the amendment").

In terms of the amendment, published on 7 May 2020:

- the term "COVID-19" is defined as "an acute respiratory illness caused by a novel coronavirus"; and
- annexure A of the Regulations published in terms of the MSA, which lists prescribed minimum benefits, is amended to include the following illness:

"Respiratory System

TREATMENT: screening, clinically appropriate diagnostic tests, medication, medical management including hospitalisation and treatment of complications, and Rehabilitation of Covid-19."

The effect of the amendment is that all medical scheme members, regardless of what plan they may be on, in the event that they contract COVID-19 and subsequently suffer respiratory illness due to COVID-19, the medical scheme is obliged to cover all costs associated with treatment complications associated with the respiratory illness.

Where it may have previously been unclear whether or not medical schemes would cover the costs for the treatment of COVID-19 for members on lower plans, leaving the responsibility for payment on the State, the amendment, arguably, relieves certain financial pressure on the Department of Health in so far as the State is now obliged only to cover the costs of citizens who are not covered by medical schemes.

However, the Amendment is silent in respect of whether or not medical schemes must cover the costs for a member electing a COVID-19 screening as a precautionary measure or only once a member has shown symptoms of COVID-19. The CMS has, however, attempted to provide clarity, discussed below, in this regard.

In response to the amendment, the CMS published on 8 May 2020, an amended version of the "PMB definition guideline" ("the guideline"). In terms of the guideline, *inter alia*:

- testing of asymptomatic patients will be funded according to scheme rules. Arguably, the CMS contemplates that medical schemes will amend their rules to include a reference to the aforementioned guideline;
- reducing the person-to-person risk of transmission and reducing the number of patients at doctors' rooms. In this regard, the CMS recommends that telehealth be delivered through online platforms and be reimbursed as PMB level of care in line with the latest Health Professions Council of South Africa communication;
- medical scheme rules must specify whether or not to cover for routine testing of asymptomatic patients who test negative for COVID-19;

- the CMS cannot stipulate the frequency of consults for a COVID-19 cases as this may vary between individuals and on the “case definition”;
- the following is not recommended in the guidelines as PMB level of care:
 - > follow-up treatment and care for any person (symptomatic) who tests negative for COVID-19; and
 - > follow-up care for any person (asymptomatic) who tests negative for COVID-19. Arguably, once one has tested negative there is no necessity for any follow-up care.

Arguably, certain of the guidelines may be *ultra vires* the amendment in so far as the guideline states that payment for screenings may, in certain instances, only be made if a patient tests positive for COVID-19.

In respect of the provisions in the guideline permitting medical schemes to regulate the payment or non-payment of screenings in terms of the applicable rules, we note that, in terms, of the amendment, “screenings”, are included as a prescribed minimum benefit that medical scheme must cover in full.



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