

National Health Insurance Bill

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National Health Insurance (NHI) Bill

National Health Insurance: *Quo Vadis?*

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Few will deride the concept of universal healthcare on the understanding that the concept means access to needed healthcare services by all who need them. However, the economics of providing such access generally mean that the concept mutates into something less than simply taking services where and when needed.

With the Parliamentary Portfolio Committee on Health dealing with a range of public comments on the National Health Insurance Bill [2019], it may be useful to revisit certain aspects of the architecture of the Bill and what changes are proposed and may occur as a consequence of the introduction of the Bill, as it currently stands, as law, to the health care system in South Africa.

Such a mutation manifests itself as universal access to healthcare services. This means that a specific or general population is allowed or provided with access to healthcare services. Access to healthcare services is a concept that finds resonance in the National Health Insurance Bill [2019] or the NHI Bill. The NHI Bill refers to universal access to healthcare services – a concept drawn from section 27 of the Constitution of the Republic of South Africa, 1996.

Access to healthcare services is arguably a distinct concept from the healthcare services to be accessed. The range of healthcare services to which one is provided with access may and does vary from one jurisdiction to another. However, in the main, the services to be accessed are, in one form or another, limited by the practicalities of arranging for such access in respect of available healthcare resources and the economics of the costs of such services.

Therefore, the NHI Bill makes much of achieving "the progressive realisation of the right of access to quality personal health care services" and making "progress towards achieving Universal Health Coverage". The NHI Bill does not, however, clarify what services are to be provided with reference to the continuum of healthcare services that a patient may need from an initial diagnosis to perhaps tertiary care in order to achieve a positive health outcome. Such a lack of clarity in the NHI Bill underscores the distinction between access as a concept and healthcare services as a separate consideration.

Whilst the **NHI Bill defines** "health care service", the term is fraught with a lack of clarity in so far as the definition provides that a health care service is "health care services, including reproductive health care and emergency medical treatment, contemplated in section 27 of the Constitution".

The definition, therefore, does not advance the interaction between access and what is to be accessed. Additional definitions appear in clause 1 of the NHI Bill for "ambulance services", "comprehensive health care services", "emergency medical services", "health goods", "health related product", "medicine" and "primary health care" but the NHI Bill does not knit these terms into a cohesive statement of what the terms mean for the services to be accessed. Whilst clause 2 of the NHI Bill proposes a mandatory prepayment system to achieve "sustainable and affordable universal access to quality health care services", the services remain oblique and unclear – almost like buying a ticket to see a movie but not knowing what movie one is going to see.

NHI Bill proposes an overhaul of the health care system

The NHI Bill proposes an overhaul of the health care system in the country introducing a range of structures for both governance of the National Health Insurance Fund and the purchasing of health care services. Therefore, Chapter 7 of the NHI Bill sets about proposing various committees that

will be responsible for certain elements of the National Health Insurance Scheme each with differing mandates and powers: the Benefits Advisory Committee (clause 25), the Health Care Benefits Pricing Committee (clause 26) and the Stakeholder Advisory Committee (clause 27).

These committees are in addition to the national Department of Health, District Health Management Offices, Contracting Units for Primary Care and the Office of Health Products Procurement. Whether or not such an ornate arrangement of public-based entities is required or needed to ensure access to health care services remains to be seen, especially in respect of the financial resources that will be needed to sustain and maintain such structures in circumstances where such resources may be better used in the provision of health care services *per se*.

A **further point of clarification** that will need to be addressed by the NHI Bill, as it progresses through its legislative passage, is what the interaction will be between a National Health Insurance Fund and existing health care structures and products designed to achieve access to health care services and payment for such services. Such structures include medical scheme products and insurance products dedicated to defraying expenditure incurred by patients when accessing health care services. Clause 33 of the NHI Bill currently states that medical schemes "may only offer complimentary cover to services not reimbursable by the Fund."

The intention appears to be, from an ordinary reading of clause 33, that where a service is available from the National Health Insurance Scheme and is reimbursable by the Fund, that service may not be offered by a medical scheme or be reimbursed by a medical scheme.

National Health Insurance Fund

The consequences of curtailing and limiting the service offering by medical schemes has the potential to undermine the stability of the existing medical schemes market where current benefit options may need to be amended, if not abandoned entirely, or reduced where the National Health Insurance Fund operates to usurp certain health care services into its service offering. Should that indeed be the intention of the NHI Bill, medical schemes will have to assess their place and, more importantly, their economic relevance in the context of a National Health Insurance Scheme.

It may be that the NHI Bill, whilst not compelling a person to become a "user" of the National Health Insurance Scheme, but making payment or contributions to the Fund mandatory, is endeavouring to entice the population to join the Fund in order to gain access to needed health care services that will not be available from alternative sources such as medical schemes.

However, with a promise of access, in one's capacity as a member or user of the National Health Insurance Scheme, one is not in a position to obtain, by way of guarantee, prompt and efficient access to needed healthcare services at the point at which such services may be needed.

Therefore, with paradigm shifts proposed in the NHI Bill to existing health care services – in both the public and private sectors – a greater degree of circumspection is needed in respect of the proposals in the NHI Bill, particularly, with reference to the constitutionality of what it is that the NHI Bill promises by way of the structures and changes that it envisages for the establishment and ultimate survival of such a large-scale social engineering project.



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