

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

In the matter between:

P Appellant

and

**REGISTRAR OF
MEDICAL SCHEMES** First Respondent

and

COMPCARE Second Respondent

RULING

- 1 This is an appeal against a decision of the First Respondent dismissing the claim of the Appellant to order that the Second Respondent re-imburse the Appellant for the costs of the donor search and stem cell transplant performed on Appellant' s son.

- 2 The salient facts were that the Appellant' s son Niki was diagnosed with acute lymphoblastic leukemia. He underwent induction chemotherapy for his

condition but failed it and according to his treating doctors remained on high risk for relapse and death.

3 It was argued on behalf of the Second Respondent that in terms of Annexure “ A ” (4) to the General Regulations¹ Niki did not meet the prescribed eligibility criteria for treatment and cover based principally on the fact that there was no family donor. The Second Respondent, however, continued to pay for all costs associated with Niki’ s condition as long as these were within Second Respondent’ s clinical protocols and the law. In fact, Second Respondent had already paid in excess of R1 700,000 (One Million and Seven Hundred Thousand Rand) in medical bills.

4 Niki eventually died from his condition.

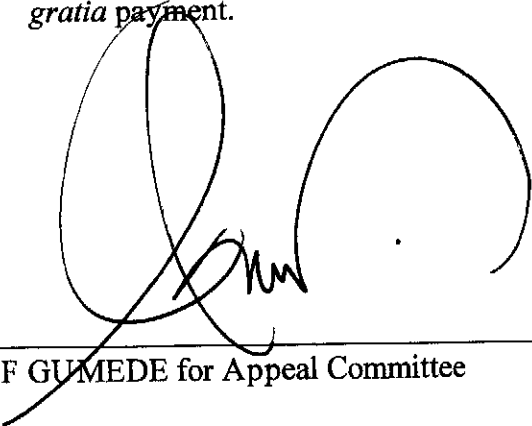
5 The Appellant is facing financial ruin because of unpaid medical bills arising from failed medical treatment and approaches this Committee to intercede for him with the Second Respondent. He seeks to be re-imbursed for the costs of hospitalisation and recovery treatment costs incurred thereafter.

6 This Committee is of the view that as the legislation stands Second Respondent acted within the prescribed legal framework regard being had to

¹ Published under GN R1262 in GG 20556 of 20 October 1999 as amended.

judicious spending and the overall duty Second Respondent owes to the scheme and its members.

- 7 Having said that, however, this Committee recommends that Annexure "A" (4) be revisited by the authorities with a view to incorporating international best practice and removing what appears to it to be a rather unfortunate and rigid categorisation.
- 8 On the recommendation of this Committee the parties have undertaken jointly to approach the board of trustees of the Second Respondent for a possible *ex gratia* payment.



S M F GUMEDE for Appeal Committee

For the Appellant: Mr. Pedro Duarte

For the First Respondent: Ms. Alicia Schoeman

For the Second Respondent: Ms. Geraldine Bartlett

Date of hearing: 15th April 2011

Date of Ruling: 11th May 2011