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GAUTENG HIGH COURT ORDER ASSERTS CMS POWERS TO PLACE MEDIPOS (SAPO'S MEDICAL SCHEME) UNDER PROVISIONAL CURATORSHIP

The Council for Medical Schemes (CMS) welcomes the Gauteng High Court judgement to place MediPos under provisional curatorship.

"We welcome the judgement delivered by the Honourable Madam Judge Molopa-Sethosa and the appointment of Justice Ephraim Kudumela as the provisional curator for MediPos. Besides the recent media reports, it was common cause that MediPos has been experiencing challenges in terms of the collection of contributions from South African Post Office (SAPO), as from April 2020 to date" said the Chief Executive and Registrar of CMS, Dr Sipho Kabane.

MediPos is duly registered as a restricted medical scheme in terms of section 24 of the Medical Scheme Act (MSA) and was established with the sole intention of covering SAPO employees.

In this case, the CMS is obliged by law to follow and apply the MSA. The MediPos curatorship process was drawn from statutory grounds, Section 56 (1) of MSA, which warrants the Registrar "*if he or she is of the opinion that it is in the interest of beneficiaries or that it is desirable to do so because material irregularities have come to his or her notice.....*"

During the 2021 fiscal year, the CMS Regulation Division flagged MediPos declining solvency rates. Accordingly, in the same period, the scheme was notified that it will be placed under close monitoring, **as a type III scheme**, which is above 25% solvency however experiencing financial difficulties and rapidly reducing solvency levels.

"In our close monitoring processes, MediPos was thus required to submit monthly management accounts to monitor the SAPO payments as per the court order of 13 October 2021. The failure or lack thereof in collecting contributions from SAPO resulted in Medipos members being adversely affected, including the suspension of membership, even though contributions were deducted from their monthly salaries," said the Registrar.

At a meeting with MediPos, the scheme informed the CMS of SAPO's last payment reflecting only until July 2022. By this time, the scheme's solvency ratio was standing at 35.9% and by December it was expected to reach 11%.

The Registrar's application for curatorship comes at the pinnacle of MediPos' dwindling membership numbers. In 2020/2021 period, the scheme lost considerable number of members and beneficiaries (the number of beneficiaries declined by 9.4%).

"The MediPos situation had become untenable even in the event were CMS granted them an exemption. For instance, the scheme's solvency level had declined from 90.5% pre Covid in 2019 to 67.7% in 2020 and 36.1% in 2021. Further to this, the scheme suffered rapid decline in their reserves due to the losses incurred in both periods, thus having a negative effect on the solvency level of the scheme" added the Registrar.

Section 35(1) (2) and (3) of the Medical Schemes Act requires all medical schemes registered with the CMS to be under sound financial condition. Regulation 29 (2) of the Medical Schemes Act also instructs a scheme to maintain accumulated funds which may not be less than 25%.

With SAPO having been declared technically insolvent and indicating its intention to cut working hours and/or retrench staff, the future for Medipos looks bleak necessitating for the Registrar to act swiftly.

It is important to note that before applying for curatorship at the High Court, the Registrar previously engaged the MediPos Board of Trustees (BoT) with the view of obtaining their consent for the appointment of a statutory manager, but unfortunately such efforts were rebuffed.

The provisional curator, Justice Ephraim Kudumela, will be expected to investigate MediPos financial position and advise on viable solutions including the future of the scheme, namely: merger, liquidation or continued existence and the terms thereof.

Ends.

ISSUED BY THE OFFICE OF THE REGISTRAR

Council for Medical Schemes

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NOTE TO EDITORS:

The CMS is a regulatory body as established by the Medical Schemes Act, 1998 (Act No. 131 of 1998) (“the Medical Schemes Act”) which requires the regulator to; protect the interests of the beneficiaries at all times; control and co-ordinate the functioning of medical schemes in a manner that is complementary with the national health policy; make recommendations to the Minister on criteria for the measurement of quality and outcomes of the relevant health services provided for by medical schemes, and such other services as the CMS may from time to time determine; investigate complaints and settle disputes in relation to the affairs of medical schemes as provided for in this Act; collect and disseminate information about private health care; make rules, not inconsistent with the provisions of the Act for the purpose of the performance of its functions and the exercise of its powers; advise the Minister on any matter concerning medical schemes; and perform any other functions imposed on the Council by the Minister or by the Act. Visit www.medicalschemes.co.za