



PRESS STATEMENT

ALL EDITORS/ HEALTH JOURNALISTS

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REGULATOR WELCOMES HIGH COURT RULING ON JURISDICTION OF UNREGISTERED HEALTH PRODUCTS

The Council for Medical Schemes notes and accepts the ruling delivered by Judge MP Motha of the North Gauteng High Court sitting in Pretoria delivered on 13 October 2023.

CMS had approached the High Court seeking a general guidance on unregistered healthcare products currently conducting the business of medical schemes without due registration.

Section 20 (1) of the Medical Schemes Act (“MSA”) makes it abundantly clear that no person shall carry on the business of a medical schemes unless that person is registered as a medical scheme. CMS sought a declaratory order against the conduct of these entities that are currently providing vouchers intended to fund medical expenses in contravention of section 20 (1) of the MSA.

Section 6 of the Financial Institution (Protection of Funds) Act 28 of 2001 allows the Registrar to approach the High Court to amongst others; discharge any duty or responsibility imposed on him in terms of any law, compel any institution to comply with any law or to cease contravening a law or to comply with a lawful directive, and to obtain a declaratory order relating to any law or business of an institution.

However, in this regard, the North Gauteng High Court was of the view that the matter should be first dealt with by the internal Appeals Committee of CMS, and by the Appeals Board should it be necessary before the matter can be brought before it.

The CMS holds the view that the issue of vouchers used to fund medical expenses goes beyond the current cited parties in the dispute and therefore it would have been properly addressed by a decision of the High Court which sets a precedence than by a decision of the Appeals Committee which does not.

CMS has nevertheless elected to abide by the judgement and is looking forward to the hearing before the Appeals Committee.

Ends.

ISSUED BY THE OFFICE OF THE REGISTRAR.

MEDIA ENQUIRIES

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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