



**IN THE APPEAL BEFORE THE APPEALS COMMITTEE OF THE COUNCIL FOR MEDICAL SCHEMES  
HELD VIA THE MICROSOFT TEAMS VIDEO AND AUDIO CONFERENCING TECHNOLOGY  
(Instituted in terms of the Medical Schemes Act No.131 of 1998)**

Case number: **CMS/85080**

In the matter between:

**FEDHEALTH MEDICAL SCHEME**

**APPELLANT**

**And**

**MP**

**RESPONDENT**

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**ORDER AND REASONS**

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**THE PARTIES**

1. The Appellant is Fedhealth Medical Scheme (“Fedhealth or the Appellant”) a Medical Scheme duly registered and regulated under the Medical Schemes Act 131 of 1998 (the “MSA.”)
2. The Appellant was represented by Ms X, duly authorised to represent the scheme at the Appeal Hearing.
3. The 1<sup>st</sup> Respondent is the Registrar of the Council for Medical Schemes.
4. The 1<sup>st</sup> Respondent was not represented at the hearing and agreed to abide by the decision of the Appeals Committee.
5. The 2<sup>nd</sup> Respondent is Mr. MP (“the member or the 2<sup>nd</sup> Respondent”) a member of the scheme in terms of the definition accorded to a “*member*” under the Medical Schemes Act 131 of 1998 (“the Act.”)
6. The 2<sup>nd</sup> Respondent was represented by Ms T duly authorised by the 2<sup>nd</sup> Respondent.

## INTRODUCTION

7. This is an appeal in terms of section 48(1) of the Council for Medical Schemes Act 31 of 1998 (“the Act”) pertaining to a decision of the Registrar dated 12 September 2024.<sup>1</sup>
8. This section provides that:  
*“(1) Any person who is aggrieved by any decision relating to the settlement of a complaint or dispute may appeal against such decision to the Council.”*
9. The Appeals Committee heard the Appeal on 6 August 2025 via an audio and video conferencing link.
10. The Appellant seeks an order that the scheme cannot be compelled by the Registrar to fund the treatment and on-going care of the Respondent’s compression garments.

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<sup>1</sup> Page 273 of the Bundle.

## FACTUAL BACKGROUND

11. In 2023, the member was diagnosed with Deep Vein Thrombosis (“DVT”) and Varicose Veins resulting in Venous Leg Ulcers. One compression stocking was initially approved by the scheme to manage the DVT diagnosis.
12. The member requires the Appellant to fund the member’s further request for compression garments in full.
13. The Appellant declined funding of the compression garments on the basis that it is not a PMB level of care.
14. The member filed a complaint in terms of section 47 of the Act with the Registrar against the funding decision of the Appellant.
15. The Registrar ruled in favour of the member directing the Appellant to fund the compression garments as a PMB level of care in accordance with the provisions of Regulation 8(1) of the Act.
16. The Appellant then filed a section 48 appeal to the Registrar’s decision, the subject matter of this Ruling.

## RELEVANT STATUTORY AND REGULATORY PROVISIONS

17. The relationship between the member and the scheme is governed by the terms of the contract (“the schemes rules”) that the member concluded with the scheme. The contract in turn is governed by the Act and the regulations (as amended) made in terms of the Act.
18. Section 32 of the Act stipulates as follows: *“Binding force of rules —The rules of a medical scheme and any amendment thereof shall be binding on the medical scheme concerned, its members, officers and on any person who claims any benefit under the rules or whose claim is derived from a person so claiming.”*

19. Regulation 7 of the Act stipulates as follows –  
*“that a prescribed minimum benefit condition is a condition “contemplated in the Diagnosis and treatment pairs listed in Annexure A or any emergency condition.”*
  
20. Regulation 8 stipulates as follows -  
*“8. Prescribed Minimum Benefits.—(1) Subject to the provisions of this regulation, any benefit option that is offered by a medical scheme must pay in full, without co-payment or the use of deductibles, the diagnosis, treatment and care costs of the prescribed minimum benefit conditions.”*

#### **WIDE APPEAL**

21. This is a wide appeal. The Appeals Committee may therefore consider the matter afresh and is not restricted to the record of proceedings that were before the Registrar.
  
22. The burden of proof rests on the Appellant who must prove on a balance of probabilities that the appeal should succeed.

#### **THE ISSUE IN DISPUTE**

23. The issue to be determined is whether the scheme must fund the compression garments in full as a PMB level of care.

#### **THE APPELLANT**

24. The Appellant acknowledges that the member's condition is a PMB condition; and that DVT (ICD10 codes I80.1 and I80.2) is a PMB condition, Diagnosis Treatment Pair (DTP) code 209E (Phlebitis & thrombophlebitis, deep).
  
25. The Appellant does not dispute that it previously funded one compression garment.

26. The Appellant submitted that since the beginning of 2024, each consultation with a vascular surgeon was submitted to the Appellant under ICD10 code, I83.0 which the Appellant submits is not a PMB diagnosis.
27. The Appellant is of the view that the subsequent request for compression garments to manage varicose veins is not a Prescribed Minimum Benefit ("PMB") entitlement and can therefore not be funded by the Appellant.
28. The Appellant placed on record that the legislated treatment for the afore-mentioned condition includes ligation and division; and medical management. It is on record that varicose veins of lower extremities with ulcer (I83.0) might have resulted from the previous DVT, but this per the Appellant is not a PMB diagnosis.
29. The appeal is founded on whether the member's condition can be classified as a PMB condition.
30. The Appellant submitted that when the member received treatment and care for DVT and Varicose Veins resulting in Venous Leg Ulcers, it was for a PMB condition. The member has now been diagnosed anew to have Varicose Veins of lower extremities with ulcer (I83.0.)
31. This new condition the Appellant submits is not a PMB condition.
32. The Appellant questions whether this complication in the form of a new diagnosis, which is not a condition as listed in the 270 Diagnosis and Treatment Pairs, of the 25 Chronic Disease List (CDL) conditions or one of the medical conditions listed in Prescribed Minimum Benefits, should be treated as the same PMB condition but requiring additional PMB treatment, in accordance with Diagnosis Treatment Pairs (DTP) set out in Annexure A, to the Regulation of the MSA.
33. The Appellant references Regulation 7 of the Act and Regulation 8 in support of its view that Registrar cannot compel the Scheme to fund this new condition, which is not a PMB entitlement.
34. The Appellant further refers to the June 2009 CM Script "*Diagnosing PMB's published by the CMS*" which states that (aside from emergency conditions) PMB's are diagnosis driven from a

limited set of published DTP's or chronic diseases; and as PMB's are only concerned about the diagnosis at hand, it does not matter how the condition in question came to be.

35. The Appellant argued that a complication of a PMB is not automatically a PMB and could itself only be one if contained within the limited set of PMB's.
36. Thus every diagnosis must be considered on its own merits as to whether it qualifies as a PMB.
37. The Appellant referred the Appeals Committee to the case of BTL / Discovery Medical Scheme. This case the Appellant submits is important because it confirms that a scheme is entitled to decline funding for a procedure excluded by the scheme rules.
38. The Appellant also referred the Appeals Committee to the case of M / Meridian Health Medical Scheme in which the Appeals Committee concluded that "*the Rules forming the contract between the parties is paramount and always will override industry norms and customs.*"
39. In the matter MCK BJ/ DHMS the Appellant submitted that the Appeals Committee in 2015 held that "*periodontitis is not a PMB condition even if it is as a result of one.*" This case is important the Appellant argued because when a scheme is faced with a request for funding all it needs to concern itself with is the condition for which the member seeks funding and not whether or not the condition derives from or is as a result of a PMB condition.
40. Accordingly, the Ruling of the Registrar stands to be set aside because it is misdirected and placed reliance on an unsubstantiated assertion of the CRC that complications of a PMB are also PMB's. This per the Appellant is an incorrect interpretation by the Registrar which creates an open-ended list of PMB's<sup>2</sup>; an unbusinesslike outcome and will increase the cost of medical aid cover to members of a scheme.
41. It is the Appellant's case that to interpret Regulations 7,8 and Annexure A to the Act and Regulations on the basis that they can extend diseases undermines PMB Rules.
42. The Appellant submits for the afore-mentioned reasons that the appeal should succeed.

## THE 2<sup>nd</sup> RESPONDENT

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<sup>2</sup> Page 723 of the Bundle – Appellant's Heads of Argument.

43. The 2<sup>nd</sup> Respondent submitted that the member's condition is a PMB condition. The 2<sup>nd</sup> Respondent submitted that CD10 code I80.2 – Phlebitis and thrombophlebitis of other deep vessels of lower extremities” is a Prescribed Minimum Benefit (PMB) condition under Diagnosis and Treatment Pair (DTP) code 209E. This DTP refers to “Phlebitis & thrombophlebitis, deep.
44. The treating doctor indicated that the Respondent a 58 years old male has chronic venous insufficiency secondary to deep vein thrombosis/post-thrombotic syndrome complicated by venous ulcers.
45. The treating doctor stated that compression therapy is the cornerstone of managing symptoms and the sequelae of chronic venous insufficiency. Diligent compliance with class 2-3 elastic graded below knee stockings is recommended. These need to be changed every 6 to 12 months and will form part of his long-term management plan.
46. Therefore based on the letter of motivation from the treating doctor, class 2-3 elastic graded below knee stockings form part of medical management for the member's condition. The prescribed stockings are PMB level of care and must be funded also in the long-term as prescribed.
47. The 2<sup>nd</sup> Respondent submitted that in terms of the provisions of Regulation 8(1), the Respondent is enjoined to fund in full, and without co-payment or the use of deductibles, the diagnosis, treatment, and care costs of prescribed minimum benefit condition.
48. Accordingly, the 2<sup>nd</sup> Respondent requests that the decision of the Registrar be confirmed by the Appeals Committee.

## **CONSIDERATION OF THE MERITS**

49. The Appeals Committee considered but not limited to the Bundle filed; the Act read with the Regulations and the submissions of both parties.
50. In this matter it is common cause that the member's condition is a Prescribed Minimum Benefit (PMB) condition.

51. What the Appellant is disputing is that (i) the Varicose veins of lower extremities with ulcer is not a PMB diagnosis; (ii) that unless the complication of a PMB diagnosis is assessed as an independent diagnosis it is not a PMB entitlement.
52. On the other hand, the 2<sup>nd</sup> Respondent asserts that his condition is a PMB condition and therefore the Appellant is required to provide funding of the treatment for compression garments in full.
53. The Registrar, before arriving at a finding referred the matter to the Clinical Review Committee ("CRC") of the CMS. The CRC confirmed that since Deep vein thrombosis is a PMB condition under DTP code 209E, complications of PMB condition are also PMBs. Therefore, chronic venous insufficiency secondary to deep vein thrombosis is a PMB condition. It therefore follows that the Appellant is incorrect in the assertion that an independent diagnosis must exist prior to confirmation of a PMB diagnosis. However, from the CRC opinion it can be ascertained that chronic venous insufficiency is a sequel of a PMB condition and as such it's a PMB condition.
54. The undisputed evidence before the Registrar indicates that the Respondent approved one compression stocking to manage the DVT diagnosis, however, the subsequent request for compression garments to manage varicose veins was declined.
55. In its opinion, the CRC advised that the prescribed garments are PMB level of care and must be funded also in the long-term as prescribed. Therefore, Regulation 8 (1) of the Act applies in this instance.

## **FINDING**

56. Accordingly, the Appeals Committee after considering the evidence is satisfied and finds that-
  - 56.1 the Member's condition is a Prescribed Minimum Benefit (PMB) condition and a PMB level of care is required.
  - 56.2 The Scheme therefore must fund the Member's compression garments in full, as required by Regulation 8(1) of the Act.

**ORDER**

57. The Appeals Committee makes the following order:

57.1 The Appeal is dismissed.

57.2. The Registrar's decision is confirmed.

57.3 There is no order as to costs.

THUS DONE AND SIGNED AT JOHANNESBURG ON THIS THE 31<sup>st</sup> h DAY OF AUGUST 2025

*SIGNED*

**PA BECK  
PRESIDING MEMBER**

Dr. H. Mukhari; Dr. Ngobese and Ms. M. Ramagaga.