



BEFORE THE APPEALS COMMITTEE OF THE COUNCIL FOR
MEDICAL SCHEMES HELD IN CENTURION, PRETORIA
(Instituted in terms of the Medical Schemes Act No.131 of 1998)

REF. CMS NO: 86658

In the matter between

Medihelp Medical Scheme

Appellant

and

The Office of the Registrar

First Respondent

MM

Second Respondent

RULING AND REASONS

INTRODUCTION

1. The Appellant is Medihelp Medical Scheme, (“Medihelp” or the “Scheme”), a Medical Scheme duly registered and regulated under the Medical Schemes Act, Act 131 of 1998 (the “MSA”).
2. The First Respondent is the Registrar for Council for Medical Schemes (the “Registrar”).
3. The Second Respondent is MM (the “member”), a member of the Scheme.
4. This is an appeal under section 48(1) of the MSA, providing 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.”

5. Ms D appeared for the Appellant.
6. Ms MM represented herself.
7. The First Respondent did not appear but indicated that the Registrar will abide by the Appeals Committee’s decision.
8. The Appeals Committee heard the Appeal on 10 September 2025 *via audio and video conferencing link*.

BACKGROUND

9. Ms. MM applied for membership of the Medihelp Medical Scheme on 22 March 2024, enrolling herself and her dependants effective 1 April 2024, under membership number xxxxxxxx.

10. On 7 August 2024, Ms. MM requested authorisation for her husband, Mr. JM, to be admitted to Netcare Krugersdorp Hospital under the care of Dr. O, a general surgeon, for treatment of gastro-oesophageal reflux disease (GERD).
11. Upon receiving the authorisation request, Medihelp initiated a verification process and discovered that Mr. JM had previously undergone a gastroscopy in 2023 before the date of enrolment.
12. Medihelp alleged that Ms. MM failed to disclose this prior condition during the application process.
13. On that basis, Medihelp invoked Rule 11.8 of its Scheme Rules and terminated the membership, alleging non-disclosure of material medical information.
14. The Registrar, upon complaint by the member, ruled that the termination was invalid, finding that the alleged non-disclosure was not material and that the member had sufficiently disclosed relevant information
15. This is ground upon which Medihelp appeals the Registrar's decision.

MERITS OF THE APPEAL

16. Wide appeal

- 16.1 Appeals before the Appeals Committee are wide appeals. The Appeals Committee may consider the matter afresh and is not restricted to the records of proceedings that was before the Registrar.
- 16.2 The burden of proof rest on the Appellant who must prove on the balance of probabilities that the appeal should succeed.

ISSUES IN DISPUTE

The primary issue before the Appeals Committee is:

17. Whether Medihelp's decision to terminate Ms. MM and other dependents' membership, on the grounds of alleged non-disclosure of Mr. JM's prior gastroscopy and gastrointestinal condition, was correct in terms of the MSA and the Scheme's Rules.

SUBMISSIONS BY APPELLANT

18. Medihelp submitted that:

- 18.1 The member failed to disclose material medical information, specifically that her dependant had undergone a gastroscopy in 2023, which revealed gastro-oesophageal reflux disease.
- 18.2 The undisclosed information was material because it influenced the Scheme's risk assessment and underwriting process.
- 18.3 In terms of Rule 11.8, the Scheme is entitled to terminate membership if false or incomplete information is provided during application.
- 18.4 Reliance on Good Faith: the Scheme argued that full disclosure by applicants is fundamental to the actuarial and risk pooling structure of a medical scheme.
- 18.5 The Registrar erred in substituting his decision for that of the Scheme, disregarding the contractual obligations of members to provide full and accurate health information.

19. The Appellant therefore sought an order setting aside the Registrar's ruling and confirming the termination of membership.

SUBMISSIONS BY RESPONDENT

20. Ms. MM, representing herself, submitted that:
- 20.1 Disclosure was made in that in the application form under the “Abdomen” section, she disclosed that her husband suffered from heartburn, which she understood to be the relevant symptom of his condition.
 - 20.2 According to the member , she answered all questions to the best of her knowledge.
 - 20.3 The gastroscopy conducted in 2023 was diagnostic and did not reveal a chronic or serious condition that required long-term treatment.
 - 20.4 The Registrar correctly found that the termination was disproportionate and inconsistent with the Scheme’s duty to act fairly toward members.

LEGAL FRAMEWORK AND EVALUATION

21. The relevant provisions of the MSA and the Regulations promulgated under the MSA in this case are Sections 29(2) and 32 which read as follows:
22. Section 29(2)(e) of the Act provides for a recourse available to a medical scheme in the instance where a member has failed to disclose material information. The section states the following:
- “A medical Scheme shall not cancel or suspend a member’s membership or that of any of his or her dependants, except on the grounds of -.*
- (e) the non-disclosure of material information.”*
23. Section 32 of the MSA states that:
- The rules of the medical scheme and any amendments thereof shall be binding on the medical scheme concerned, its members, officers and any person who claims any benefit under the rules or whose claim is derived from a person so claiming.*

24. Rule 11.8 of the Rules of Medihelp stipulates that *should it be determined that the member has in any application supplied false information or withheld material information, the membership of such a member may in the discretion of Medihelp, subject to the provisions of rule 11.2, be terminated from the date of enrolment as a member or later date of enrolment of a dependant, and the net amount of benefits paid by Medihelp and all subscriptions paid by the member, calculated as from the termination date, shall be refunded to the relevant party.*

DISCUSSION AND ANALYSIS

25. It is common cause that:
- Mr. JM was a registered dependant under Ms. MM's membership;
 - He suffered from gastro-oesophageal reflux disease with oesophagitis (ICD 10: K21.0);
 - Further, the aforementioned disease is not an emergency medical condition.
 - Ms. MM indicated "heartburn" in the application form under the abdominal section.
26. The question is whether this disclosure was sufficient and material in the context of the application.
27. The Committee observes that the application form does not specifically ask whether any prior *gastroscopy* was performed, but rather requests disclosure of *symptoms or conditions*.
28. Principles of Material Non-Disclosure direct that for non-disclosure to justify termination, the undisclosed fact must be *material* — meaning it would have reasonably affected the Scheme's decision to accept or reject the member or impose waiting periods.
29. According to section 29(2)(e) of the MSA, a medical scheme may decide to terminate or suspend a member's or a dependent's membership if it is discovered that material information had not been disclosed. Both when

applying for membership or as a dependent and prior to the start of membership or as a dependent, this important information is needed.

30. In order to make informed decisions regarding membership, benefit entitlements, and premium payment, it is pivotal for a member to disclose material information. The scheme may be unable to accurately evaluate the risk profile of the applicant if the information is not disclosed.
31. In casu, Ms MM failed to disclose in full her husband's medical condition during the application process.
32. Accordingly, the Scheme acted lawfully in terminating Mr JM's membership in terms of section 29(2)(e) .
33. While the Appeal Committee agrees with the Scheme in terminating Mr JM's membership, the extension of the termination of membership to other dependants and the main member could not be legally justified.
34. The Scheme relied on its Rule 11.8 when it extended membership termination to other dependents and the main member.
35. The Committee is of the view that the Scheme misdirected itself in relying on Rule 11.8 of its Scheme Rules.
36. Consequently, the Appeals Committee is satisfied that the Registrar correctly determined that the termination of the main member and other dependents was unjustified.

37. **FINDING**

- 37.1 The Scheme is correct in terminating Mr JM's membership in terms of section 29(2)(e) of the MSA.
- 37.2 Membership termination of Ms MM and other dependants cannot be justifiable.

37.3 The Scheme's reliance on Rule 11.8 is misplaced.

ORDER

38. Having considered the submissions, the legal framework, and all the evidence before it, the Appeals Committee makes the following order:

38.1 The Appeal by Medihelp Medical Scheme is dismissed.

38.2 The decision of the Registrar setting aside the termination of Ms MM and her other dependant's membership is upheld.

38.3 No order as to costs.

DATED AT CENTURION ON 10 September 2025.

DR THANDI MABEBA

(For and on behalf of the Appeals Committee)

CONCURRING WITH –

Dr H Mukhari

Dr X Ngobese

Adv T Maphike

Miss P Beck