



## RULINGS ISSUED BY THE OFFICE OF THE REGISTRAR

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## **B v Discovery Health Medical Scheme**

### **Refusal to fund treatment in terms of Regulation 15H(c)**

This complaint was submitted against Discovery Health Medical Scheme (the Scheme) by Ms B ('the Complainant'). The complaint was lodged following a funding dispute in which the Scheme declined to fund the full cost of Beriglobin®, which was prescribed for the Complainant and her two dependants.

On the facts submitted, the Complainant and her dependants were all diagnosed with Common Variable Immune Deficiency, for which they were receiving monthly infusions of Polygam®. She indicated that they all experienced adverse reaction to Polygam® infusions and that this impacted negatively on their quality of lives. The treating doctor recommended a change in prescription from Polygam® to Beriglobin®. Reportedly, the Scheme only approved funding of up to R15 000 per person, per month. The Complainant argued that the amount approved by the Scheme was insufficient to cover the cost of the required dosages for each of them. Upon assessment, the complaint was referred to the Scheme for a response, in terms of section 47(1) of the Medical Schemes Act, 131 of 1998.

In its formal response, the Scheme confirmed that the Complainant and both dependants were diagnosed with Common Variable Immunodeficiency with predominant abnormalities of B-cell numbers and function. The Scheme provided a detailed synopsis of each dependant's treatment history and confirmed that it had received clinical motivation letters from various treating doctors over an extended treatment period indicating that the Complainant and her dependants experienced different side effects ranging from severe headaches, recurrent infections, fevers and failure to respond to vaccinations. Although the Scheme admitted to having received requests to consider full funding for Beriglobin®, it maintained the decision to decline the request because there was no confirmation that the side effects were ever reported to the pharmaceutical company or any evidence of renal function deterioration due to Polygam® usage.

To determine the extent of the Scheme's funding liability, the matter was referred to the CMS Clinical Review Committee ("CRC") for its clinical opinion on (a) the status of the condition under Prescribed

Minimum Benefits (PMB), (b) the prescribed level of care for the condition and (c) other inherent factors applicable in each member's clinical circumstances.

Having reviewed all the submitted clinical evidence, the CRC verified that the condition is included in the Diagnosis and Treatment Pairs (DTPs) under Code 913S. The CRC also confirmed that the diagnosis falls under "*Immune compromise NOS and associated life-threatening infections NOS*" and based on this inclusion in the DTPs, the condition qualifies as a PMB condition. The CRC further advised that in Annexure A to the Regulations, the treatment component is specified as "*Medical management*" and that Beriglobin® constitutes medical management for the condition.

Lastly, the CRC indicated that it is incorrect for the Scheme to decline full funding merely because the side effects were not reported to the pharmaceutical company. It was further noted from submitted clinical reports that attempts were made to re-challenge the Complainant and her dependants with Polygam® while in hospital and that in the week following the re-challenge, they all reported recurrence of adverse effects which included severe myalgia, headaches, fever and arthralgia. Consequently, the CRC opined that although the Scheme is allowed in terms of the regulations to have protocols in place, it is important for provision to be made for appropriate exceptions where a protocol has been ineffective, causes or would cause harm to a beneficiary.

Given the Scheme's continued refusal to reconsider its funding decision, the Registrar considered this matter in line with Regulation 8(1), which clearly states that the diagnosis, treatment and care costs of a PMB condition must be paid in full by a medical scheme. It was also noted that Regulation 15H(c) clearly states that provision must be made for appropriate exceptions where protocol has been ineffective or causes harm to a beneficiary, without penalty to that beneficiary. The Scheme's requirement for specific side effects to be experienced first and its expectation that side effects should have been reported to the pharmaceutical company, were found to be baseless and not supported by any legislation.

Based on the unrefuted evidence of recurrent adverse effects experienced by the Complainant and her dependants, the Registrar found that the Scheme must fund the full cost of Beriglobin® in accordance with Regulation 8(1) and Regulation 15H(c) of the Act, without any penalty to the Complainant and her dependants.