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RULINGS ISSUED BY THE OFFICE OF THE REGISTRAR

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B v DISCOVERY HEALTH MEDICAL SCHEME

Cost Recovery

The complaint concerns the Scheme's decision that a cost recovery (an amount owing to the Scheme) is due on the complainant's membership. The member explained that following the cancellation of his membership, he contacted the Scheme to confirm whether any amounts were owed and was assured by a consultant that no debt existed. However, he was later handed over to debt collectors for an alleged amount of R8,418.55. Despite repeated attempts to engage with client services management, his emails were not returned. He maintained that the Scheme admitted the debt only reflected at a later stage after his inquiry, and that the

consultant never advised him of this possibility. He contended that the debt is unwarranted and requested the Registrar to direct the Scheme to waive it.

In response, the Scheme stated that the Medical Savings Account (MSA) is allocated upfront at the beginning of the year and recovered in monthly contributions. Where membership is terminated before year-end and spending exceeds contributions, the member remains liable for the shortfall. In this case, the member was allocated R15,792 for 2024, but after his membership ended on 31 May 2024, his MSA usage exceeded his contributions, resulting in a shortfall of R8,418.55. The Scheme acknowledged service failures in communication during the withdrawal process, which led to the member being incorrectly advised that no amounts were owed. While it has since delisted him from the credit bureau to allow resolution, the Scheme maintained that the cost recovery is valid and that the member remains liable for the debt.

The issue which fell for determination was whether the Scheme's application of the cost recovery pertaining to the MSA overspend is correct and in line with the Act, Regulations thereto and its registered rules.

Upon investigation, the submissions made by both the member and the Scheme were reviewed, as well as the applicable Regulations. Rule 13 of the Scheme's registered rules entitles the Scheme to recover unpaid contributions or any benefits disbursed in excess of a member's entitlement. Although the member's MSA was allocated upfront for the year, entitlement accrues monthly, and by the time his membership ended on 31 May 2024, he had already utilised funds intended for June to December, resulting in an overpayment recoverable under Rule 13 and the principle of unjust enrichment. Call recordings confirmed that the member was informed of a potential liability linked to his MSA usage, though the exact amount could not be confirmed at the time. While the Scheme's cost recovery is contractually valid and consistent with the Act, the Scheme acknowledged shortcomings in handling the member's escalation. The Registrar highlighted the importance of effective control systems as required under section 57(4)(c) of the Act.

Accordingly, a ruling was issued confirming that the Scheme was correct in its application of the cost recovery pertaining to the overspend MSA.