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S v DISCOVERY HEALTH MEDICAL SCHEME

Termination of membership due to non-disclosure of material information

The complaint concerns the decision of the Scheme in terminating the Complainant's membership due to alleged non-disclosure of material information. The Complainant indicated that the Scheme cancelled his membership on the basis of non-disclosure of a pre-existing condition. He explained that in 2016 he sustained a right shoulder injury in a car accident, for which surgery was not required but physiotherapy was recommended. Due to the demands of his work and extensive driving, he occasionally sought treatment for shoulder, shoulder blade, and related muscle discomfort

extending to the neck and thoracic spine. In 2022, after relocating to Pretoria, he consulted a chiropractor whose negligence resulted in a herniated disc. The Complainant disputed the Scheme's classification of this injury as a pre-existing condition.

In responding to the complaint, the Scheme indicated that the Complainant applied for membership effective 01 March 2024, with a three-month general waiting period and a condition-specific waiting period for Benign Prostatic Hypertrophy. On 12 July 2024, an in-hospital authorisation request was received for treatment of lumbar conditions, none of which qualified as Prescribed Minimum Benefits (PMBs). The Scheme stated that it requested a Personal Medical Assessment (PMA) form from the Complainant's treating practitioners, but the initial request was not received in time, leading to the decline of the authorisation. Subsequently, completed PMA forms and motivations were submitted, whereupon it identified material non-disclosure of medical information. On 12 August 2024, the Complainant was informed that his membership would be terminated retrospectively, and a confirmation letter was issued. On 28 August 2024, the Scheme decided to allow reinstatement of membership with updated underwriting and payment of outstanding premiums, but on 03 September 2024, the Complainant indicated that he no longer wished to continue. The Scheme therefore upheld its decision to terminate the membership due to material non-disclosure.

The issue which fell for determination was whether the Scheme was justified in terminating the Complainant's membership due to the alleged non-disclosure of material information.

Upon investigation, the submissions made by the Complainant and the Scheme were reviewed, as well as the applicable provisions of the Act. Section 29(2) of the Act permits a medical scheme to cancel membership on specific grounds, including non-disclosure of material information. Section 29A of the Act further provides for the imposition of waiting periods where an applicant has received medical advice, diagnosis, care, or treatment within the 12 months preceding an application for membership. In this case, the Scheme relied on a PMA indicating that the Complainant had consulted a physiotherapist on 17 February 2023, which fell within the 12-month disclosure period. The Complainant initially disputed this but later submitted a letter from the physiotherapist confirming the consultation date. This session constitutes "treatment" within the meaning of Section 29A. Furthermore, call recordings confirm that the Complainant failed to disclose this information

during his membership application. The Registrar therefore found that the Complainant did not act in accordance with the duty of full disclosure. The non-disclosure was material to the Scheme's underwriting assessment, as the omitted information directly influenced the imposition of waiting periods and risk evaluation. Accordingly, the Scheme was within its rights under Section 29(2)(e) of the Act to terminate the Complainant's membership due to non-disclosure of material information.

Accordingly, a ruling was issued confirming that the Complainant's termination of the membership is both justified and in accordance with Section 29(2)(e) of the Act.