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RULINGS ISSUED BY THE OFFICE OF THE REGISTRAR

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D obo D v Discovery Health Medical Scheme

Declined funding of authorised Hepasphere® Microspheres treatment for colon cancer.

This complaint was lodged by Mr. D (“the Complainant”) obo Ms. D (“the dependant”) against Discovery Health Medical Scheme (“the Scheme”). The dispute concerns the Scheme’s decision to fund the dependant’s pre-authorised Hepasphere® Microspheres and then subsequently reverse the claim.

The complaint was referred to the Scheme in terms of Section 47(1) of the Medical Schemes Act 131 of 1998 (“the Act”). In response to the complaint, the Scheme submitted that its records reflect that the dependant was diagnosed in 2022 with C18.9 *Malignant neoplasm, colon, unspecified*, which it averred is a Prescribed Minimum Benefit (PMB) condition under provision 950C *Cancer of the gastrointestinal tract, including oesophagus, stomach, bowel, rectum, and anus treatable with the stipulated treatment being medical and surgical management, which includes chemotherapy and radiation therapy*.

The Scheme received the authorisation request on 23 January 2024, and the request was first referred to its Clinical Advisory committee. The Scheme averred that, as the dependant had not yet received confirmation of approval for the admission, she contacted the Scheme on 25 January 2024 to follow up. It indicated that its representative advised the dependant that the authorisation request had been approved, and the decision was communicated via email. The dependant received the said treatment on 26 January 2024 and the claims were paid. The Scheme subsequently reversed the claims on 18 March 2024, after the dependant received the authorised treatment.

The Scheme indicated that, due to a paucity of evidence supporting this treatment approach in such patients, it maintains its decision not to fund the Hepasphere® Microspheres treatment. The Scheme based its decision on the registered Scheme rules.

The legal issue which remains to be determined is whether the Scheme is justified in its decision to repudiate funding for the Hepasphere® Microspheres.

During the investigation, the complaint was referred to the CMS Clinical Review Committee to determine if the dependant's condition constitutes a Prescribed Minimum Benefit (PMB) condition and if the Hepasphere® Microspheres. Constitute PMB level of care for the condition.

CRC confirmed that the dependant's condition *ICD10 code "Secondary malignant neoplasm of large intestine and rectum" (C78.5) is a Prescribed Minimum Benefit (PMB) condition under Diagnosis and Treatment Pair (DTP) code 950C. This DTP code refers to "Cancer of the gastro-intestinal tract, including oesophagus, stomach, bowel, rectum, anus – treatable".* Furthermore, CRC considered the applicable explanatory note and found *because the cancer has spread to the liver, point 4 (iv) of the Explanatory notes and definitions to Annexure A applies in this case. However, in the PMB definition guideline for metastatic colon and rectal cancer, chemoembolization is not PMB level of care.*

The CMS considered the Scheme's conduct in this case and found that the Scheme authorised the Hepasphere® Microspheres and then reversed the claims after the dependant received the treatment. Based on the submissions by both parties the Registrar found that having given full consideration to the facts and submissions above, the Registrar finds that the Scheme's conduct is not in compliance with Section 57(4)(c) of the Act. In the result, the Scheme was directed to reimburse the Complainant for the costs associated with the Hepasphere® Microspheres procedure.

