



**BEFORE THE APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL  
SCHEMES  
INSTITUTED IN TERMS OF THE MEDICAL SCHEMES ACT, NO 131 OF  
(1998),  
HELD VIA THE MICROSOFT TEAMS VIDEO AND AUDIO CONFERENCE  
TECHNOLOGY,  
HEARD ON 21.11. 2025  
RULING PRESUMED TO HAVE BEEN ISSUED ON 05.12.2025  
BY CIRCULATION TO THE PARTIES**

**CASE NR: CMS-86487**

In the matter between:

**MEDIHELP MEDICAL AID SCHEME**

Appellant

and

**Z**

Respondent

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**RULING AND REASONS**

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## **FACTUAL MATRIX:**

- 1) The Respondent, (Mrs. Z), was admitted to Mediclinic on 13 February 2024, and later transferred to its Intensive Care Unit, (ICU), due to serious health concerns, (she also battled comorbidities), including critically low haemoglobin, (HB) levels which at one point dropped to 4.3. To manage these blood-related issues, her treating practitioner prescribed Mabthera®.
  
- 2) Throughout her two-month hospital stay, Mrs. Z underwent multiple treatments, including her first chemotherapy session on 25 February 2024, followed by additional chemotherapy sessions on 01 and 08 March 2024, culminating in spleen removal surgery on 13 March, 2024.
  
- 3) On 20 March 2024, the Appellant, (Medihelp), requested further documentation from Mrs Z's treating practitioner to support the Mabthera® treatment. However, Mrs. Z contended that her treating practitioner had already submitted all pertinent pathology reports on 27 February 2024 as justification for the treatment.

- 4) On 16 August 2024, Mediclinic informed Mrs Z that it, (Medihelp), had denied coverage for the Mabthera® treatment. She subsequently followed up via email and telephonic calls, but each time her inquiry led to the same outcome that the request for funding was declined.
  
- 5) Mrs. Z emphasized that her treating practitioner offered to provide any necessary additional clarification to Medihelp regarding her treatment, asserting that no one else would be better qualified than her treating practitioner, to determine the appropriate medical intervention.
  
- 6) Compounding the issue, Mrs. Z noted an administrative discrepancy wherein her Prescribed Minimum Benefits, (PMB), for oncology were irregularly registered under her husband's name, an irregularity that was only rectified in mid-September 2024.
  
- 7) In the course of her ICU stay, she also received significant medical interventions, including plasma and blood transfusions, to stabilize her condition, further complicating her treatment needs.

8) She seeks reimbursement from Medihelp for the costs associated with the declined treatment, amounting to R 50 000.00, (Fifty Thousand Rand).

**THE APPELLANT’S RESPONSE:**

9) Mrs. Z is registered on the MedAdd Elect benefit plan, which has specific limitations regarding the coverage of oncology treatments.

10) The oncology program is managed through a Designated Service Provider, (DSP), arrangement with oncologists affiliated with the Independent Clinical Oncology Network (ICON), emphasizing a structured approach to cancer treatment.

11) Medihelp applies managed care principles to ensure cost-effective cancer management, which includes protocols for funding chemotherapy and medications based on agreed treatment tiers with its oncology network.

12) Treatments included in a patient’s plan are established annually in consultation with the oncology network, and

coverage is directly linked to the member's benefit option and associated monthly premiums.

- 13) The Appellant is obligated to provide benefits as outlined in the PMB framework, but it noted that higher benefit options offer a broader range of treatments compared to the MedAdd Elect plan, to which Mrs Z is subscribed.

## **THIS APPEAL**

- 14) The present proceedings under the aegis of section 48 of the Medical Schemes Act, (the MSA), turn on an appeal noted by Medihelp, against the CMS Registrar's ruling which found in favor of Mrs. Z
- 15) This appeal process is preceded by and is a sequel to a CMS section 47 complaint traversed by the Registrar who made a determination on to the Appellant's non-funding of Mabthera® (Rituximab) for Mrs Z's treatment, as already set out above under 'Factual Matrix'. The appeal raises critical questions about compliance with the provisions of the MSA and

relevant regulations, particularly in relation to the definition of PMBs and the necessity for just and fair treatment of scheme beneficiaries.

## **THE REGISTRAR'S FINDINGS**

16) Following upon a thorough investigation, the Registrar acknowledged that Mrs. Z suffers from Autoimmune Hemolytic Anemia, (AIHA), which is classified under PMB regulations. The Clinical Review Committee, (CRC), in the Registrar's office, advised that the initial treatment sequence involving corticosteroids and blood transfusions did not yield sufficient therapeutic success, leading to the initiation of Mabthera®.

### **Ineffectiveness of Standard Protocol:**

17) The treatment regimen initially employed, (corticosteroids and blood transfusions), did not stabilize the complainant's condition, as confirmed by both the clinical history and the advice from the CRC. Regulation 15H(c) directly applies

here, granting Mrs. Z the right to an alternative treatment option when the standard protocol fails.

## **ISSUE/S FOR DETERMINATION IN THIS CASE**

- 18) Based on the given facts and the applicable MSA provisions, whether or not the Registrar laboured under a misdirection when arriving at his finding and conclusion that the Appellant funds Mabthera®.

## **KEY LEGAL FRAMEWORK**

### **Medical Schemes Act (MSA) 131 of 1998:**

- 19) The MSA provides the legal framework for the operations of medical schemes, including the governance of PMBs, the latter are designed to ensure that medical scheme members receive a defined level of care irrespective of their particular benefit options.

### **Prescribed Minimum Benefits (PMBs):**

20) The MSA outlines required minimum benefits that must be covered by all medical schemes, including treatments for certain conditions as defined by the Act. The treatment of acquired hemolytic anemia (AIHA), which Mrs. Z was diagnosed with, falls under PMB criteria.

**Regulation 15H(c):**

21) This regulation specifically mandates that exceptions must be made where treatment protocols are ineffective or harmful, stating:

‘Provision must be made for appropriate exceptions where a protocol has been ineffective or causes or would cause harm to the beneficiary, without penalty to the beneficiary.’

**THE CRISP ITERATION OF THE APPELLANT’S RESISTANCE TO FUND Mabthera® AND THE COMMITTEE’S OBSERVATION**

22) It is not intended to overburden this ruling, the Appellant’s case is well captured in its founding papers and was amplified in the hearing of 19 November 2025.

23) ***The Appellant succinctly argues that:***

23.1 Mabthera® is not a listed treatment under the essential medicines list for the Respondent's specific indication.

23.2 Treatment decisions must align with a pre - defined oncology treatment plan.

***However, the following points are critical in assessing the merit of these defences:***

**Clinical Judgment:**

23.3 The essential nature of a treating practitioner's recommendation holds significant weight in treatment determination. The treating practitioner has unbridled discretion to decide the best treatment strategy for the patient, this was exercised in Mrs. Z case.

**Contractual Obligations and PMB Framework:**

23.4 While it is accepted that Mrs. Z was under the MedAdd Elect, Regulation 15H(c), as articulated, has countervailing force obliging Medihelp to comply as

determined by the Registrar, and found in this appeal.

## **CONCLUSION**

24) In light of the presented evidence and regulatory framework, it is determined that:

24.1 The Registrar acted justly and fairly in ruling that Medihelp must fund Mabthera® (Rituximab) for Mrs. Z , based on the inadequacy of initial treatments in her case.

24.2 Regulation 15H(c) clearly supports making exceptions and facilitating access to alternative treatments when standard interventions have proven ineffective or potentially harmful.

24.3 In terms of the principles of fairness and justice embedded in the MSA, the Registrar acted appropriately by upholding the Respondent's rights.

25) Thus, it is affirmed that the decision by the Registrar is correct, it must not be interfered with, as it stands.

26) It bears mention that Mrs Z sought reimbursement in the amount of R 50 000.00 as her relief, and this must be put into effect by Medihelp, per the Ruling set out herein below.

**RULING:**

- 1) The Registrar's Ruling is upheld
- 2) The appeal is dismissed.

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**Adv T MAPHIKE**  
**Member:**  
**Appeals Committee**

**Dr X Ngobese, Dr T Mabeba and Dr H Mukhari Concurring**

**APPEARANCES:**

**For the Appellant: Ms X – Legal Advisor**  
**For the Respondent: In Person**