BEFORE THE APPEALS COMMITTEE OF THE COUNCIL FOR MEDICAL SCHEMES

HELD ***VIA*** **MICROSOFT TEAMS VIDEO AND AUDIO CONFERENCING TECHNOLOGY**

(Instituted in terms of the Medical Schemes Act No.131 of 1998)

REF.CMS NO: 87266

In the matter between:

Bonitas Medical Fund	Appellant
and	
The Registrar	First Respondent
A obo B	Second Respondent

RULING AND REASONS

INTRODUCTION

1. This is an appeal lodged in terms of section 48 of the Medical Schemes Act 131 of 1998 ("the Act") against a decision of the Registrar made under section 47 of the Act.

2. The appeal concerns whether Bonitas Medical Fund ("the Scheme") is obliged to fund certain home-based services, rehabilitative therapies and medical supplies required by the member following prolonged hospitalisation.

3. The Appeal Committee considered the complete record, including the motivation letter of the treating specialist, the Scheme's grounds of appeal, the Registrar's ruling, and the applicable statutory and regulatory framework.

4. The Appeals Committee heard the Appeal on 02 December 2025 *via* audio and video conferencing link.

BACKGROUND

5. Mr B (the member) is a member of Bonitas on BonComplete option with effect from 01 January 2017.

6. In terms of chronic medicine benefits, this benefit option provides cover for conditions on the chronic disease list (CDL) and diagnostic treatment pair (DTP) as legislated Prescribed Minimum Benefits(PMB).

7. The member was admitted to XXX Hospital from July 2024 until December 2024 following multiple serious medical conditions.

8. The ICD-10 codes recorded include G72.8,Z86.6,J09, J18.9, I10, E78.5, A41.9, E11.9 and I26.9 reflecting myopathies, nervous system disease,

pneumonia, sepsis, diabetes mellitus, hypertension, pulmonary embolism and other acute complications.

9. The treating specialist motivated for funding of:

- Post hospital discharge full-time home-based care;
- Physiotherapy and Occupational Therapy;
- Hospital bed;
- Hygiene supplies, including adult diapers and linen savers ;
- Cavilon® Cream and Ointment ;
- Protein powder and/or other nutritional supplements.

10. The Specialist expressly states that the member "requires full-time care and monitoring as he is at high risk of readmission" and that the requested services are necessary to prevent complications and further hospitalisation

11. The Scheme declined funding for several of these items.

12. The matter was referred to the Registrar, who ruled in favour of the complainant and directed the Scheme to fund the services.

13. The Scheme now appeals that decision.

GROUNDS OF APPEAL

14. The Scheme submits that the Registrar erred by:

14.1 Extending PMB obligations beyond the limits of Regulation 8;

14.2 Failing to properly apply the Scheme Rules;

14.3 Conflating medical necessity with statutory entitlement;

14.4 Ordering funding of items that it characterises as custodial or non-medical in nature.

THE REGISTRAR'S RULING

15. The Registrar found that the member's medical condition remained clinically unstable following prolonged ICU admission.

16. The Registrar concluded that the requested services were integrally connected to the treatment and management of PMB conditions.

17. The Registrar determined that refusal to fund the services would undermine continuity of care and increase the risk of re-admission.

18. The Scheme was directed to fund the services accordingly.

ISSUES IN DISPUTE

19. The issues before this Committee are:

19.1 Whether the requested home-based services and therapies fall within "diagnosis, treatment and care" as contemplated in Regulation 8;

19.2 Whether the Scheme Rules limit or exclude funding for such services;

19.3 Whether the Registrar misdirected himself in law.

SUBMISSIONS BY THE APPELLANT

20. The Scheme submits that PMB funding is diagnosis-specific and limited to acute clinical interventions according to June 2009 CMScript "Diagnosing PMBs."

21. Accordingly ,the Appellant argues that when the Scheme receives funding request, It only needs to consider the condition for which funding is sought .It does not matter whether that condition arose from or as a result of treatment for a PMB condition.

22. It further submits that full-time caregivers constitute custodial care and not medical treatment covered under PMBs.

23. It contends that its Rules limit out-of-hospital benefits and that the Registrar improperly expanded benefits beyond the Rules.

SUBMISSIONS BY THE RESPONDENT

24. The Respondent relies on the specialist's detailed motivation that the services are necessary to prevent further complications and re-admission

25. He argued that the member developed significant sarcopaenia and functional decline following prolonged ICU admission

26. The Respondent contends that the requested therapies and care are not elective or convenience services, but essential components of recovery and ongoing treatment.

LEGAL FRAMEWORK

27. **The Medical Schemes Act:**

Section 29(1)(o) requires Scheme Rules to define benefits.
Section 32 binds schemes to their Rules.
Section 47 empowers the Registrar to resolve complaints.
Section 48 provides for appeals.

28. **Regulation 8**

Regulation 8(1) obliges schemes to pay in full for the diagnosis, treatment and care costs of PMBs.

The phrase "treatment and care" must be interpreted purposively and contextually, consistent with constitutional and Supreme Court of Appeal authority on statutory interpretation.

29. Judicial Interpretation

In *Genesis Medical Scheme v Registrar of Medical Schemes And Another ZACC 16;2017 (9) BCLR 1164 (CC);2017 (6) SA 1 (CC),* the Court confirmed that PMB obligations must be interpreted within the statutory framework, but not restrictively so as to undermine the legislative purpose of protecting beneficiaries against catastrophic health expenditure.

The Act is remedial and consumer-protective legislation.

DISCUSSION AND ANALYSIS

30. The Appeal Committee accepts that the member suffered multiple PMB conditions, including Diabetes Mellitus, Hypertension, Pneumonia, Sepsis and Pulmonary Embolism.

31. The medical evidence reflects that his discharge from ICU did not equate to clinical stability.

32. The specialist explicitly records that the patient remains at “high risk of re-admission” and requires monitoring to prevent deterioration.

33. Regulation 8 does not confine funding to hospital walls. It obliges Schemes to fund “diagnosis, treatment and care” of PMB conditions.

34. The term “care” must be given substantive meaning. It encompasses post-acute interventions necessary to stabilise and manage the condition.

35. *In casu*, the evidence demonstrates that:

- Physiotherapy and occupational therapy are required to reverse sarcopaenia resulting from prolonged ICU admission.
- Hygiene supplies are required to prevent pressure sores and infection
- Cavilon® cream is indicated to prevent skin breakdown;
- Nutritional supplementation is necessary to restore muscle mass following protein loss

36. These interventions are not unrelated lifestyle enhancements. They are clinically linked to recovery from PMB conditions.

37. The Scheme's characterisation of such services as purely custodial is not supported by the medical evidence.

38. The Act must be interpreted purposively. To exclude essential post-acute care would defeat the objective of ensuring access to effective treatment.

39. The Committee finds that the Registrar did not expand benefits unlawfully. Rather, he interpreted Regulation 8 in a manner consistent with the protective purpose of the Act.

40. Section 32 binds schemes to their Rules; however, Scheme Rules cannot override statutory PMB obligations.

41. The Committee is satisfied that the requested services are sufficiently connected to the management of PMB conditions to fall within Regulation 8.

42. The Appeal does not demonstrate a material error of law or fact on the part of the Registrar.

FINDINGS

43. The Appeal Committee finds that:

43.1 The member's conditions constitute Prescribed Minimum Benefits.

43.2 The requested services are clinically linked to the treatment and ongoing management of those PMB conditions.

43.3 The Registrar correctly applied Regulation 8.

43.4 The Scheme has not established a basis to interfere with the Registrar's decision.

ORDER

44. Having considered the matter, the Appeals Committee rules that:

44.1 The appeal is dismissed.

44.2 The Registrar's ruling is upheld.

44.3 The Scheme is directed to fund the requested services in accordance with Regulation 8 of the Medical Schemes Act and the applicable Scheme Rules.

44.4 There is no order as to costs.

DATED AT THIS CENTURION ON 12 JUNE 2026

DR THANDI MABEBA (For and on behalf of the Appeals Committee)

CONCURRING WITH-

Adv Maphike

Dr H Mukhari

Dr Ngobese