



**BEFORE THE APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL  
SCHEMES HELD VIA THE MICROSOFT TEAMS VIDEO AND AUDIO  
CONFERENCE TECHNOLOGY INSTITUTED IN TERMS OF MEDICAL SCHEMES  
ACT NO 131 OF (1998) - CASE NUMBER (CMS83753)**

In the matter between:

**DISCOVERY HEALTH**

**APPELLANT**

**AND**

**A obo B  
REGISTRAR**

**1<sup>ST</sup> RESPONDENT  
2<sup>AND</sup> RESPONDENT**

**HEARD ON:  
DATE OF RULING:**

**11<sup>th</sup> APRIL 2025  
10<sup>TH</sup> DECEMBER 2025**

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**RULING AND REASONS**

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## **THE PARTIES.**

1. The Appellant is Discovery Health Medical Scheme, a registered medical scheme in terms of the Medical Schemes Act 131 of 1998. The Respondent is Mr. A, acting on behalf of his wife, Ms. B, who was admitted to Life Glynnwood Hospital on 17 March 2023 for treatment of acute renal failure (ICD-10 N17.9).

## **APPELLANT'S SUBMISSION**

2. The Scheme submitted that the Member disclosed a history of Diabetes Mellitus and Hypertension at the time of her application for membership. Because she had a break in cover, the Scheme lawfully imposed a three-month general waiting period and a twelve-month condition-specific waiting period in terms of section 29A of the Act.
3. The offer letter issued to the Member specifically listed renal complications, renal failure, and renal disease as related conditions to hypertension and diabetes. Based on this disclosure and the underwriting provisions, when Life Glynnwood Hospital submitted an authorisation request for admission on 17 March 2023, the Scheme immediately declined the request, contending that the diagnosis of acute renal failure was directly linked to the Member's pre-existing conditions.
4. The Scheme further submitted that its decision was reviewed by its legal and medical advisors and found to be consistent with its 2023 rules, including Annexure C: Exclusions and Limitations, which provides that healthcare services rendered during a waiting period will not be funded.

## **RESPONDENT'S SUBMISSIONS.**

5. The Respondent argued that the waiting period was imposed only on hypertension and diabetes and not on kidney failure. He emphasised that the Member was admitted as an emergency case, initially presenting with vomiting, dehydration and weakness, with the diagnosis of acute renal failure confirmed thereafter. He contended that acute renal failure is a Prescribed Minimum Benefit emergency medical condition in terms of the Regulations and therefore had to be covered in full regardless of any waiting period.
6. The Respondent further pointed out that an authorisation number was issued at admission which created a reasonable expectation that the admission would be covered. On these grounds, he requested that the Scheme be directed to fund the admission, diagnostic tests and dialysis in full.

## **LEGISLATIVE REVIEW AND EVALUATION**

7. Section 29A of the Medical Schemes Act permits a scheme to impose waiting periods where there has been a break in membership exceeding 90 days. Such waiting periods may be general or condition-specific but must be confined to the actual condition disclosed by the applicant.
8. The imposition of a CSWP for hypertension and diabetes in this case was therefore valid. However, the Act and its Regulations also provide that Prescribed Minimum Benefits are guaranteed to all members. Regulation 8(1) requires medical schemes to fund in full the diagnosis, treatment and care of PMB conditions, which include 270 serious conditions, 25 chronic diseases and all emergency medical conditions. Acute renal failure is expressly listed as such an emergency.
9. This means that even if there has been a break in cover and a CSWP is validly imposed, the protections afforded by PMBs remain intact. The legislature deliberately provided that waiting periods cannot displace PMB entitlements. A scheme may lawfully exclude routine claims for hypertension and diabetes during a waiting period, but it cannot extend the exclusion to life-threatening emergencies like acute renal failure.
10. The Clinical Review Committee endorsed this position, noting that while hypertension may have contributed to the Member's condition, the primary diagnosis was acute renal failure and this qualifies independently as a PMB emergency. The CRC concluded that waiting periods may not be extended to all possible complications and certainly not to PMB emergencies.

## **ANALYSIS AND EVALUATION OF FACTS.**

11. The Scheme's Heads of Argument, while carefully structured around section 29A of the Medical Schemes Act and its underwriting rules, are limited in that they rely almost exclusively on the technical application of condition-specific waiting periods and the wording of the offer letter without fully accounting for the overriding provisions of the Act relating to Prescribed Minimum Benefits.
12. The argument assumes that because renal complications are clinically associated with hypertension and diabetes, they automatically fall within the exclusion, yet this approach stretches the CSWP beyond its lawful scope. It disregards the fact that acute renal failure is expressly classified as a PMB emergency condition and that Regulation 8(1) compels schemes to fund such conditions in full, irrespective of exclusions. Furthermore, the Scheme's reliance on Annexure C: Exclusions and Limitations is insufficient where those rules conflict with statutory obligations, as scheme rules cannot override legislation.
13. Finally, the Heads of Argument are weakened by the contradictory and inconclusive clinical evidence, which diminishes the certainty of causation the Scheme relies on. By

failing to grapple with the binding effect of the PMB framework, the broader purpose of the Act, and the principle that ambiguities in clinical evidence must be resolved in favour of access to care, the Scheme's case remains legally and substantively constrained.

14. The Appeals Committee accepts that the Scheme acted within its powers under section 29A in imposing a CSWP on hypertension and diabetes following a break in cover. The issue, however, is whether such a waiting period can lawfully be used to deny cover for a PMB emergency condition.
15. On this point, the legislative framework is clear. The PMB provisions override scheme rules and underwriting practices to guarantee minimum healthcare access. Regulation 8(1) creates an absolute obligation: once a diagnosis qualifies as a PMB, the scheme must fund it in full. The Appellant's interpretation, which seeks to extend the waiting period to emergency complications, is inconsistent with the protective purpose of the Act and Regulations.
16. The Committee also notes that the medical evidence in this matter was not uniform. The treating nephrologist's letters were at times contradictory and emphasised different possible causes, including both hypertension and analgesic overuse. When such contradictions arise, it is necessary to weigh the totality of the evidence.
17. In this case, the Member's medical history of more than twenty years with hypertension and diabetes is uncontested and provides an objective basis for understanding her vulnerability to renal failure. However, even if the exact trigger was uncertain or multifactorial, the decisive point is that acute renal failure itself is a PMB emergency condition.
18. The law does not require absolute certainty as to cause before the PMB obligation arises. Thus, even in the face of inconclusive or contradictory clinical opinions, the patient's medical history and the statutory framework ensure that the condition still qualifies for full funding.

#### **APPEALS COMMITTEE PERSPECTIVE**

19. The Committee emphasises that to allow schemes to extend waiting periods to PMB emergencies would undermine the integrity of the statutory framework. Section 29A was never intended to permit the denial of life-saving care; it was designed to prevent anti-selection while preserving the universal guarantee of minimum benefits.
20. Even where a member has had a break in service, the law is explicit that PMBs must be funded in full. Furthermore, where medical opinions conflict or are inconclusive, the proper approach is to consider the broader clinical record, the member's longstanding medical history, and the independent assessment of the Clinical Review Committee.

21. These elements provide a balanced view that upholds fairness, equity, and legislative intent. In this matter, the Registrar correctly applied both the clinical evidence and the statutory provisions. The Committee endorses that reasoning and finds that the Scheme's approach was unreasonable, inconsistent with the Act, and contrary to public policy.

## **FINDINGS.**

22. The Appeals Committee, having considered the submissions, the medical evidence, the opinion of the Clinical Review Committee, and the provisions of the Medical Schemes Act, finds that the Scheme was incorrect in declining funding for the Member's admission and dialysis. While the imposition of a condition-specific waiting period for hypertension and diabetes was valid in terms of section 29A, the Scheme erred in extending that exclusion to acute renal failure, which is an emergency diagnosis recognised as a Prescribed Minimum Benefit.

23. The Committee accepts that the medical opinions presented were at times contradictory, but notes that the Member's long history of hypertension and diabetes, together with the independent review of the CRC, confirms the susceptibility to renal complications while reinforcing that the acute renal failure stands as a PMB emergency condition in its own right. Regulation 8(1) requires that PMB conditions be funded in full, and this statutory obligation cannot be overridden by scheme rules or by broad interpretations of waiting periods.

24. The Committee therefore finds that the Registrar's ruling was correct and that the Scheme is obliged to fund the admission, diagnostic tests, and treatment in full at PMB level of care.

## **ORDER**

25. The Appeals Committee finds that the Scheme acted incorrectly in declining funding for the member's hospital admission on the basis of the CSWP.

26. The appeal is dismissed and the ruling of the Registrar is upheld.

27. The Scheme is directed to fund the costs of the Member's admission at Life Glynnwood Hospital from 17 to 31 March 2023, including all diagnostic tests and dialysis, in full and at PMB level of care, in accordance with Regulation 8(1) of the Medical Schemes Act.

28. There is no order as to further costs.

**THUS, DONE AND SIGNED AT CENTURION ON THIS THE 10<sup>TH</sup> DAY OF DECEMBER 2025.**

*SIGNED*

**Date: 10<sup>TH</sup> December 2025**

Dr K Chetty, Miss M Ramagaga and Dr X Ngobese, members of the appeal panel concurring.

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<sup>1</sup> Pages 67-72, CRC Report, 73-78 Registrars ruling, 79-78 scheme section 48 Notice of Appeal.