



**BEFORE THE APPEAL COMMITTEE OF THE COUNCIL FOR MEDICAL
SCHEMES (SECTION 48 APPEAL)**

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

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

In the matter between

Ref number: CMS 86934

Mr. Z

Appellant

And

Bankmed Medical Scheme

Respondent

Panel: Dr K. Chetty; Dr S. Naidoo; Ms P. Beck.

Date of hearing: 21 November 2025.

Date of ruling: 17 December 2025.

RULING AND REASONS

THE PARTIES

1. The Appellant is Mr Z (The “Appellant” or “Member”), a Member of Bankmed Medical Scheme.
2. The Respondent is Bankmed Medical Scheme (The “Respondent or the “Scheme”), registered and regulated under the Medical Schemes Act, Act 131 of 1998 (the “MSA” or “Act”).
3. Ms X, Legal Advisor for Discovery Health (Administrator) appeared for the Respondent.
4. Dr M, Medical Advisor for Bankmed Medical Scheme was also present.

BACKGROUND

5. The Appellant, Mr. Z is a Member of the Bankmed Medical Scheme.
6. Mr. Z had a Lumbar Radiculopathy procedure performed by Dr S on October 3, 2024.
7. The Appellant laid a complaint against Bankmed Medical Scheme regarding the short payment of claims for the procedure performed.
8. The Appellant states that Bankmed failed to inform him that Dr. S was not a Designated Service Provider (DSP), leading to significant out-of-pocket expenses. He claims the communication from Bankmed was ambiguous and lacked transparency regarding financial implications.
9. Bankmed stated that the procedure was pre-authorized, and Mr. Z was informed that Dr. S was not a DSP.
10. Bankmed funded the claims at the Scheme Rates, as per the Scheme rules, and maintained that Mr. Z voluntarily chose a non-DSP provider despite being informed of the potential financial implications.
11. Mr. Z has appealed the Registrar’s decision.

THE REGISTRAR'S RULING

12. The Registrar's Ruling was issued on 14th March 2025.
13. The Registrar ruled that the Respondent has correctly applied Regulation 8(2) in this case and funded the claims at scheme rates due to the voluntary use of non-DSPs, as the DSP status of the doctor was communicated to the Complainant
14. The Member is now appealing this decision in terms of Section 48 Appeal.

APPLICATION TYPE AND RELIEF SOUGHT

15. This is an appeal under section 48(1) of the Medical Schemes Act (the "MSA or the Act").¹ This section provides that:
 - a. *"(1) Any person who is aggrieved by any decision relating to the settlement of a complaint or dispute may appeal against such decision to the Council".*
16. The Appeals Committee heard the appeal on 21 November, 2025 via an audio and video conferencing link.

RELEVANT STATUTORY AND REGULATORY PROVISIONS

17. The relationship between the Scheme and the Member is governed by the terms of the contract ("the Schemes rules") the Scheme concluded with Member. The contract in turn is governed by the "MSA" and the regulations (as amended) made in terms of the Act.
18. This is a wide appeal. The Appeals Committee may consider the matter afresh and is not restricted to the record of proceedings that were before the Registrar.
19. The burden of proof rests on the Appellant who must prove on a balance of probabilities that the appeal should succeed.

¹ Medical Schemes Act 131 of 1998 as amended by Act 55 of 2001; Section 48(1); Proc 13/GG 19725/19990129

THE ISSUE IN DISPUTE

20. The issue in dispute is whether the Scheme was correct to not fund the account for services rendered in full on the basis that it constitutes voluntary use of a non-DSP.

APPELLANTS SUBMISSION

21. The Appellant Mr. Z joined Bankmed through his employer ABSA Bank (now retired) from 7th August 2000 and is currently covered on the Bankmed Comprehensive benefit plan.
22. Mr. Z had a lumbar radiculopathy procedure performed on 3 October 2024 by Dr. S.
23. The Appellant states that on 25 September 2024 Dr. S's secretary informed him that she would obtain the required approval from Bankmed to perform the procedure.
24. On 26 September 2024 he received an SMS confirming that authorisation had been granted. He states that there was no indication in the communication that Dr. S was not approved.
25. He also received an approval letter from Bankmed, citing that nowhere in the letter was there reference that Dr. S does not have an agreement with Bankmed. He notes however that it was stated "*there may be some expenses that we do not cover such as health care professionals who charge more than the rate covered by your plan or all health care professionals with whom we do not have an agreement.*"
26. The Appellant states that Bankmed was aware that Dr. S was not contracted with Bankmed, while he was unaware of the fact and that Bankmed should have warned him so that he could make an informed decision regarding the cost implications.
27. The Appellant states that the communication does not talk of a DSP or non-DSP, and believes that this should be clearly stated.
28. The Appellant requests that Bankmed should improve its communication with its members, organise regular webinars or information sessions to educate

members, and to provide transparent cost estimates for procedures, including out of pocket expenses and any co-payments.

29. The Appellant requests a full refund due to poor communication and incomplete advice.

RESPONDENTS SUBMISSION

30. The Appellant Mr. Z has been a member of Bankmed since August 2000 and is currently covered on the Bankmed Comprehensive benefit plan.
31. This plan provides funding for the approved in hospital claims up to the agreed rates for network hospitals and up to 100% of the scheme rates for non-network hospitals. Approved related costs will be funded up to the contracted rate for network specialists and up to 100% of the scheme rate for non-network providers.
32. The Respondent states that on 26 September 2024 a representative from the offices of Dr. S contacted the scheme telephonically to request authorisation for Mr. Z's planned admission scheduled for 3rd October 2024 at Busamed Paardevlei Private Hospital.
33. During the call interaction the scheme's representative confirmed that:
- a. the authorisation request had been loaded and approved.
 - b. the treating provider does not have a payment arrangement with the scheme, thus, the claims for the practice would be funded up to 100% of the scheme rate in accordance with the members plan type.
 - c. shortfalls would be funded from the members own pocket
34. The Respondent states that on the same day the scheme sent an authorisation approval letter to the Appellant which specifically noted that²:
- We do not have a payment arrangement with your admitting healthcare professional. This is why we will pay the claims for the approved treatment up to the Scheme Rate. You must pay the balance of the account if your healthcare professional charges more than this rate.
35. The Scheme identified DSP spinal orthopedic surgeons who practiced within reasonable proximity to the Appellant's residence, and who could have been contacted to assist with the procedure.

² Page 32 of the bundle

36. The Respondent states that given that the authorisation was a planned admission and that the Appellant was aware that Dr. S is a non-DSP who does not have a payment arrangement with the scheme, it is of the view that the Appellant procedure did not constitute an emergency as defined in the Act.
37. The Respondent further states that the member did not submit a pre-assessment request for the Scheme to provide him with an estimate of what the cost implications for the procedure would be. They state that had the member made such a request the Scheme would have furnished him with the cost estimates of the shortfalls.
38. The Scheme maintains its decision to decline funding for the shortfalls incurred as the Appellant's use of a non-DSP does not fulfill the criteria set out in Regulation 8(3) of the Act to constitute involuntary use of a non-DSP.
39. The Scheme submits that its funding decision was justified and correct, in accordance within the Scheme's Rules.
40. The Scheme accordingly requests that the appeal be dismissed and that the Registrar's decision be confirmed.

DISCUSSION AND ANALYSIS

The Appeals Committee considered papers filed in this appeal; the further submissions the party's made; the relevant provisions of the Medical Schemes Act; and the Rules of the Scheme.

41. There is no dispute that the Appellants conditions qualify as a PMB.
42. The key issues to be determined is the use of the non-DSP provider for a PMB condition, and whether the use of Dr. S was voluntary or involuntary.
43. In terms of Regulation 8 of the Regulations under the Act, medical schemes are entitled to stipulate in their rules that members must utilise DSP's for PMB conditions. In terms of Regulation 8(2) a Scheme may apply a co-payment or deductible if a member made use of a non-DSP, unless it can be considered as "involuntary" use of a non-DSP as stipulated in Regulation 8(3)(a)(c).
 - (1) *A beneficiary will be deemed to have involuntarily obtained a service from a provider other than a designated service provider, if -*
 - a) *The service is not available from the designated service provider or would not be provided without unreasonable delay*

- b) *Immediate medical or surgical treatment for a prescribed minimum benefit condition was required under circumstances or at locations which reasonably precluded the beneficiary from obtaining such treatment from a designated service provider; or*
- c) *There was no designated service provider within reasonable proximity of the beneficiary's ordinary place of business or personal residence*

44. The Appellant argues that approval letter from Bankmed, there was no reference that Dr. S does not have an agreement with Bankmed. He notes however that it was stated "*there may be some expenses that we do not cover such as health care professionals who charge more than the rate covered by your plan or all health care professionals with whom we do not have an agreement.*"
45. The Scheme stated that the Appellant and the doctors practice was informed that it was a non-DSP and the scheme tariffs will apply.

We do not have a payment arrangement with your admitting healthcare professional. This is why we will pay the claims for the approved treatment up to the Scheme Rate. You must pay the balance of the account if your healthcare professional charges more than this rate.

46. The same authorisation letter was submitted by the Appellant, which clearly stated that the member must pay the difference.
47. The Respondent has also identified DSP spinal orthopedic surgeons who practiced within reasonable proximity to the Appellant's residence.
48. Given the above, it cannot be concluded that the use of a non-DSP was involuntary. Without evidence demonstrating involuntary use of a non-DSP, there is no valid legal basis to require the Respondent to cover the full costs of the claim.
49. The Appellants made a request for improved communication to educate members about DSPs and the financial implications of using non-DSPs. The Appellant also requested better communication and transparency on costs and co-payments that members have to make. Section 57(4)(d) of the Act stipulates that adequate and appropriate information is communicated to members regarding their rights, benefits, contributions and duties in terms of the rules of the medical schemes. The Scheme must ensure that it complies with Section

57(4)(d) of the Act, and conduct the requested information sharing sessions with its members

FINDINGS

50. The Appeals Committee has determined that the Member's situation does not satisfy any of the criteria outlined in Regulation 8(3), and accordingly, his use of a non-DSP is not regarded as involuntary.
51. The Member is deemed to have made voluntary use of a non-DSP as the DSP status was communicated.
52. The Scheme has correctly applied Regulation 8(2) in this case and funded the claims at schemes rates due to voluntary use of a non-DSP.

ORDER

Having considered the matter the Appeals Committee orders that:

- b. The appeal is dismissed.
- c. The decision of the Registrar is upheld.
- d. There is no order to costs.

Dated at Johannesburg on 17 December 2025

Dr KS Chetty (For and on behalf of the Appeals Committee)

Concurring:

Dr S. Naidoo

Ms P. Beck.