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Market Access Update: May 2023

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We'll look at

1. A bit on NHI
2. CMS update, including
   - CMS programme
   - Rulings
   - PMB review
   - LCBO's
   - FWA
3. Funding and Competition law
4. Upcoming BHF Conference

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NHI

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Opposition parties walk out in protest during NHI meeting

March 29, 2023

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Furious opposition MPs walked out of Parliament's Health Committee last week in protest after the chair declined their request to postpone deliberations on the **National Health Insurance** (NHI) Bill and allow them more time to consider the complexities of legal advice received last week.

Divergent views on the Bill were given by deputy chief state law adviser Ayesha Johaar, who said it met constitutional muster, while Parliament's legal adviser, Sueanne Isaac, said the Bill was open to constitutional challenge on several fronts.

Business Day reports that **FF Plus** MP Philip van Staden said the documents submitted by Johaar and Isaac required careful consideration, and asked for a week's postponement so that political parties could obtain their own legal counsel on the matter.

"It will be a great injustice if we are not afforded adequate time to seek legal advice on the input," he said.

He was supported by the **DA**'s Lindy Wilson, who said the state law adviser and Parliament's legal adviser had taken months to prepare their respective positions, yet MPs had been accorded barely a week to consider the documents they had submitted.

The **EFF**'s Naledi Chirwa also called for the meeting to be postponed, saying the party needed more time to consider the legal input received by the committee.

5 confirmations of issues

1. CUPs (Contracting Units for Primary Healthcare) are not comprising of providers, they are units of the NHIF contracting WITH providers [*but unclear why they are needed, given the DHMOs*] [9 CUPS with be piloted in this financial year – 1 per province]
2. No specialist contracting – only through hospitals [*but unclear what about non-hospital based specialists, and other HCPs, e.g. dieticians, physio's, OTs, O&Ps, etc., working in hospitals at various levels of care*]
3. Medical schemes will really not be permitted to provide services offered under the NHI [*but reply on 30/11 – NHI will not be able to provide advanced technologies … but will schemes be sustainable if they only cover that?*] and NDOH does NOT want health insurance products
4. Provisional accreditation (quality) for health establishments would be possible… (OHSC)
5. The complaints and Tribunal system [*costing?*]

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Answered by NDoH*

Main concerns in Parliament: 30 Nov 2022

1. Comments* have not been considered by stakeholders and by MPs, Parliament abdicated to NDOH
2. Medical schemes*
3. Funding of the NHI, including reply by Minister of Finance that it would depend on benefits*
4. Quality*, infrastructure*
5. Payment of suppliers* and providers*
6. Medico-legal costs
7. MoH's powers and structures*
8. Details…e.g. on benefits
9. Non-SA on SA soil?
10. Co-operation between public and private
11. Competition Act

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Systematic and phased inclusion of funding streams to NHI Fund (2021/22 Rand – each route will require a different implementation plan)

= changes to Constitution? What stays and what moves?

= changes to COIDA, RAF Act

= taxation

CURRENT SOURCE OF FUNDS	Rand (million)	REORGANISATION AND ROUTE TO NHI FUND	Rand (million)
National Department of Health core	12 947	Will be about R7bn excluding COVID	
National Department of Health Indirect Conditional Grants	85	R85m already national	
National Department of Health Direct Conditional Grants	60 000	All of this will move to NHI Fund	60 000
Provincial Departments of Health Provincial Equitable Share	175 892	Most of this will move to NHI Fund	150 000
Defence (SAMHS)	5 474	Will not move	
Correctional Services	1 216	All of this will move to NHI Fund	1 216
Local government (own revenue)	5 138	Will not move (mostly environmental)	
Workmen's Compensation contributions	* 3 502	All of this will move to NHI Fund	3 502
Road Accident Fund levies	** 1 675	All of this will move to NHI Fund	1 675
Compensation for Occupational Injuries and Diseases (COIDA)	***?????	To be identified	
Medical schemes (Employer contribution public service)	230 618	This R70bn could be moved to NHI Fund early	70 000
Medical schemes (Employer contribution private employer)		The remaining R270bn will need to be raised through 1. tax credits redirected R34bn 2. taxation route (+/- R200bn) and 3. leave some for Complementary	
Medical schemes (Employee contribution)			34 000
Out of pocket	38 653		200 000
Medical insurance	5 501		
Employer private (including Occupational Health)	2 630		
Donors	11 095	Will not move	
2021/22 HEALTH FUNDS	**554 426**	**NHI FUND**	**520 393**

***; **; *** NOTE that figures from NT are unclear if this is only the medical expenses portion or other compensation**

Set-up and operational costs (e.g. Board, Committees, Complaints system, Tribunal, HTA, etc.?

health
Department:
Health
REPUBLIC OF SOUTH AFRICA

World Health Organization

Phila Inspired to live

2030 NDP

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Also: Implementation steps

- 1 CUP (Contracting Unit for PHC) per province in 2023 (District Health, contracting, R85m)
- Posts in NHI:
  - User and Service Provider Management: 7 posts;
  - Healthcare benefits and provider payment: 6 posts;
  - Health product procurement: 3 new posts (on top of the existing posts on PEE, licensing and affordable medicines directorate (AMD));
  - Health systems digital information: 25 new posts;
  - Fraud management: 3 posts.
- Five digital health priorities are:
  (a) The development of a complete electronic health record;
  (b) The digitisation of health systems business processes (e.g. HR and medicines access);
  (c) Interoperability and linkages to existing patient-based information systems;
  (d) Scaling up of high impact m-Health interventions (e.g. children, women, the elderly);
  (e) Development of digital health knowledge workers

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CMS

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Key Focus Areas for 2023/24

- Finalisation of Low-Cost Benefit Options (LCBO) Framework and present recommendations to the Minister of Health.
- Significant Progress in the Review of the Prescribed Minimum Benefits.
- Finalisation of the **Section 59** Investigation and release of the FINAL Report.
- Acceleration of the industry Fraud, Waste and Abuse initiatives.
- Standardisations of amendments to rules of medical schemes.
- Advance the Funding Model Development work.
- Collaboration with local, regional and international regulators.

Fraud, waste and abuse / Section 59

- Fraud, Waste & Abuse reported at between R22bn and R28bn per annum (note: coding disputes also recorded as “FWA”)
- There is a new CMS FWA Code – e.g. must get consent before disclosure

- Device industry not immune to scheme FWA forensic investigations – check c a r e f u l l y (what sometimes look like managed care or normal interactions…):
  - Section 59(3)(a) – benefit not due was paid
  - Section 59(3)(b) – LOSS as a result of theft, fraud, misconduct & negligence

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KeyHealth Medical Scheme v Ngoepe NO and Others (High Court)

- PMBs were paid from the day-to-day benefits
- Found to be unlawful – PMBs must be paid from risk
- Even if the KeyHealth rules had allowed for funding of PMBs from the MSA, Regulation 8 would have prevailed.

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CMS cases in past few months

- If a scan reveals NO PMB, even if was done to diagnose a PMB, NOT funded as a PMB and benefit limits apply (2 such cases)
- CRT-D qualifies as PMB level of care (paid for procedure but not device)
- Spinal stenosis (lumbar region) = PMB condition; severe lateral recess stenosis at L3/L4 with root pathology, but no compression to the spinal cord not a PMB
- ICD10 code M23.96- Internal Derangement of knee is a PMB
- Scheme cannot rely on cost in state sector to justify short-payment
- Left lip procedure must be completed, incl dental work
- Reg 15H: “ample evidence that the member had failed on the treatment protocol used and that there were sufficient evidence-based studies to support that [medicine] is effective in the treatment of the member’s condition.
- Where diagnostic tests have not been done to confirm a PMB diagnosis, subsequent treatment are not PMB

- Time-lapse of 6 days means that not an emergency (ophthalmology)
- Prosthesis as a result of diabetes amputation must be funded in full, and not only up to scheme prosthesis limits…
- There is no clinical report to refute the use of formulary contraceptives
- Non-PMB benefit: Mirena IUD – scheme cannot provide evidence that must be over 35 years, no EBM and scheme must fund
- The Clinical Review Committee confirmed that although the member's diagnosis is a PMB condition, his treatment of choice (RALP - Robotic-Assisted Laparoscopic Radical Prostatectomy) does not constitute PMB level of care
- Meds excluded from the National Department of Health's Essential Drug List (EDL) and therefore not considered to be PMB level of care (!!!)
- Due to the procedure's suboptimal diagnostic accuracy, CT angiogram did not qualify as PMB level of care.
- Where scheme pre-authorized and created impression that codes would be ok, and then decline to fund violates the law

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Low-cost Benefit Options (LCBOs)

- Currently finalising the LCBO Guidelines

September – December 2022	November 2022	December 2022 – March 2023	March – April 2023	May – June 2023
Circulars 53 and 57 of 2022 were published for public comments and input.	Established an internal working committee to assess the advisory committee's output depicted in circular 53 of 2023.	Input received from internal business units and considered for the updated guidelines, which are at an advanced stage.	Legal framework and policy options analysis draft Stakeholder mapping analysis at an advanced stage	Consolidation of all the outputs and submission to the Council and Minister for the final policy position
			Finalisation of public comment analysis and report (end of April)	

PMB Review: ONLY PHC!

Primary Health care package	Hospital level package
Preventative services	Inpatient education packages
Maternal and neonatal services	Maternal and neonatal services
Child health services	Child health services
Curative services	Curative services
Mental health services	Mental health services
Diagnostic: laboratory services	Diagnostic: laboratory services
Diagnostic: imaging services	Diagnostic: imaging services
Pharmaceutical services	Pharmaceutical services
Emergency medical services	Emergency medical services
Palliative services	Palliative services

Law says, review every 2 years:

- Inconsistencies or flaws in the current regulations,
- the cost-effectiveness of technologies or interventions,
- consistency with developments in health policy, and
- the impact on medical schemes and the affordability

- Defining and costing by end 2023/2024 (April)
- pmbreview@medicalschemes.co.za.

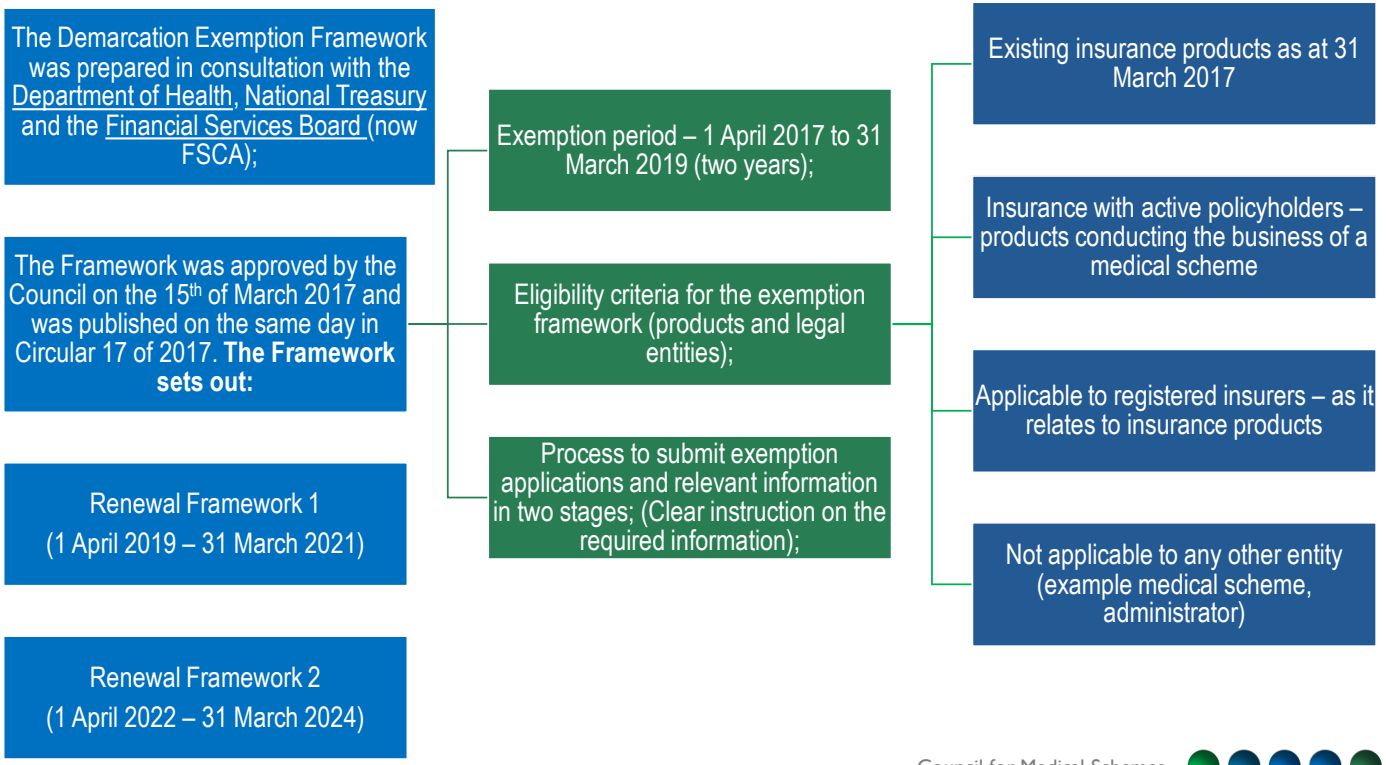
PO Forum

Contracting for managed care services

- Signed contract between the parties
- Terms of the arrangement must be included in the written contract
- The medical scheme is not absolved from its responsibility towards its members
- Guideline for the preparation of managed care agreements - available on the CMS website
- The managed care agreement must comply with the managed care accreditation standards (Version 5)
- Managed care services and fee structure must be aligned with the managed care services document
- Circular 11 of 2023: Entities providing managed care services not accredited for

Non-medical scheme insurance products

DEMARCATION EXEMPTION FRAMEWORKS



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Funding and competition law

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SAOA exemption application

- Being granted permission to engage with the major medical scheme funders and other interested parties
- To discuss acceptable:
  - coding bundles,
  - total units per procedure and
  - acceptable total quantums
- Asking for it for a period of 3 years
- Comment by 3 April 2023
- Criteria:
  - Changing the productive capacity necessary to stop decline in an industry;
  - Achieving competitiveness and efficiency gains that promote employment or industrial expansion

https://www.gov.za/sites/default/files/gcis_document/202303/48162gon3117.pdf

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Medical schemes complaint on Covid-19 tests

- Health Funders Association (HFA) lodged a complaint against the price of COVID-19 tests
- recouping about R1 billion previously paid out to the 3 biggest private pathology labs.
- asked the Competition Commission to launch a new investigation into the prices charged by Pathcare, Ampath and Lancet for COVID-19 PCR tests in 2020 and 2021.
- Several non-member schemes, collectively representing 5.6 million of the country's 8.9 million medical scheme beneficiaries, have joined the complaint.

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BHF Conference

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EKA daily reports available, also back order reports…

- Even if you attend…

- Programme includes:
  - harm reduction,
  - health outcomes,
  - value-based care,
  - benefit design,
  - patient needs & systems

Also a good place to gauge what views are on topic health matters… NHI, LCBOs, etc.

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Thank you!

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