

# **Healthcare Funding Reform Bill**

## **Bill**

**To achieve the most fair and equitable funding model in order to attain and maintain universal access to quality healthcare; to maximise the availability of healthcare services to all residing in South Africa; to create a funding model for the private healthcare sector that ensures affordable care; to provide a framework for healthcare service and medical scheme benefit option pricing and the extent of cover.**

## **Arrangement of Bill**

### Definitions

Chapter 1	Mandatory medical scheme membership
Chapter 2	Income-tiered Benefit options
Chapter 3	Annual Income-tiered Benefit Option Pricing and Benefit Review
Chapter 4	Exemption from Prescribed Minimum Benefits
Chapter 5	Repeal and amendment of legislation affected by bill

## **Definitions**

“council” means the Council for Medical schemes established by section 3 of the Medical Schemes Act, No. 131 of 1998;

“dependant” means the definition of the term, as put forth in the Medical Schemes Act, No. 131 of 1998;

“employee” means any natural person, excluding an independent contractor, who works for another juristic or natural person and who is entitled to remuneration for more than an average of 25 hours per week or 40 hours per month, whichever comes first, for three months, from a single employer for carrying on or conducting the business of an employer;

“employer” means a juristic or natural person who employs one or more natural persons.

“employer contribution” means contributions made by employers to employees’ medical scheme contributions, for which the minimums are calculated in accordance with section (3)(3)(d)

“employer organisation” means any organisation that collectively represents employers and has done so in any formal proceedings.

“health care service” means –

- (a) Healthcare services, including reproductive health care and emergency medical treatment, contemplated in section 27 of the Constitution;
- (b) Basic nutrition and basic health care services contemplated in section 28(1)(c) of the Constitution;
- (c) Medical treatment contemplated in section 35(2)(e) of the Constitution; and
- (d) Where applicable, provincial, district and municipal health care services;

“health product” means a product regulated in terms of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), the Hazardous Substances Act, 1973 (Act No. 15 of 1973), the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), or any other product regulated by a law governing its quality, efficacy or performance and used in the provision of health care services;

“financial year” means each period of 12 months ending on 31 December;

“Income tiered benefit option” means benefit options for which qualifying income bands are set according to the regulations enacted under chapter 2 and 3.

“medical scheme” means any medical scheme registered under section 24 (1) of the Medical Schemes Act, No. 131 of 1998;

“medical schemes act” means the Medical Schemes Act, No. 131 of 1998;

“medical scheme fees tax credit” means the rebate paid to members of medical schemes by the the South African Revenue Service;

“Minister” means the minister of health;

“national minimum wage” means the national minimum wage, as published annually in the government gazette as prescribed by the National Minimum Wage Act of 2018 (Act No. 9 of 2018);

“prescribed” means prescribed by regulation;

“prescribed minimum benefits” means the prescribed minimum benefits as contained in the regulations enacted under the Medical Schemes Act, 1998 (Act No. 131 of 1998);

“principal officer” means the principal officer appointed in terms of section 57 (4) (a) of the Medical Schemes Act, No. 131 of 1998;

“reduced benefit option” means a benefit option that complies with the prescribed minimum benefit exemptions as set out in chapter 4;

“relevant health service” means any health care treatment of any person by a person registered in terms of any law, which treatment has as its object-

- (a) The physical or mental examination of that person;
- (b) The diagnosis, treatment or prevention of any physical or mental defect, illness or deficiency;
- (c) The giving of advice in relation to any such defect, illness or deficiency;
- (d) The giving of advice in relation to any such defect, illness or deficiency;
- (e) The prescribing or supplying of any medicine, appliance or apparatus in relation to any such defect, illness or deficiency or a pregnancy; or
- (f) Nursing or midwifery,

And includes an ambulance service and the supply of accommodation in an institution established or registered in terms of any law as a hospital, maternity home, nursing home or similar institution where nursing is practised, or any other institution where surgical or other medical activities are performed, and such accommodation is necessitated by any physical or mental defect, illness or deficiency or by a pregnancy;

“user” means the person receiving treatment in a health establishment, including receiving blood or blood products, or using a health service, and if the person receiving treatment or using a health service is-

- (a) Below the age contemplated in section 39(4) of the Child Care Act, 1983 (Act No. 74 of 1983), user includes the person's parent or guardian or another person authorised by law to act on the firstmentioned person's behalf; or
- (b) Incapable of taking decisions, "user" includes the person's spouse or partner or, in the absence of such spouse or partner, the person's parent, grandparent, adult child or brother or sister, or another person authorised by law to act on the firstmentioned person's behalf.

## **Chapter 1**

### **Mandatory medical scheme membership**

- (1) All people working within the republic of South Africa and who meet the definition of "employees" are to be members of a medical scheme of their choice.
- (2) Employers are to ensure that all employees are members of medical schemes.
- (3) Employers must educate employees -
  - (a) On different scheme benefit options
  - (b) on their benefits regarding their chosen medical scheme benefit options.
- (4) Subsections (1), (2) and (3) come into effect as soon as an employee's employment is likely to exceed 3 months or if three months had passed since appointment of such an employee.
- (5) Employers carry the responsibility of collecting medical scheme contributions and paying it over to medical schemes, as well as any other administrative burdens that accompany paying for employees' medical scheme memberships.
- (6) Failure to comply with subsection (5) shall constitute non-payment of wages or salaries and be subject to the penalties and procedures in the Basic Conditions of Employment Act, No. 75 of 1997.

## **Chapter 2**

### **Income-tiered Benefit options**

- (1) In addition to or as part of their current benefit option offerings, every medical scheme must provide at least two income-tiered benefit options, extrapolated as Option A and Option B in 3 and 4 below.
- (2) Benefits, pricing and on Income-tiered benefit options shall be subject to-
  - (a) Annual reviews as outlined in Chapter 3
  - (b) Prescribed minimum benefits, specific to Option A and Option B, as defined by the review as instituted in Chapter 3
- (3) Income-tiered benefit Option A shall be reserved for those earning a monthly income between R0 and 355 times the hourly national minimum wage.
- (4) Income-tiered benefit Option B shall be reserved for those earning a monthly income between 355 times the hourly national minimum wage plus R1 and a monthly income of 580 times the hourly national minimum wage.
- (5) Medical Schemes may assign their own names to income-tiered benefit options, as long as they are clearly advertised as falling under this section as either Option A or Option B, with the relevant income brackets for the year in which the information brochure or any other benefit option information is published.

## **Chapter 3**

### **Annual Income-tiered Benefit Option Pricing and Benefit Review**

- (1) The Minister of Health shall publish regulations for the following financial year for all income-tiered benefit options annually before the end of August.
- (2) Regulations may only be published after:
  - (a) consultation with the Minister of Finance, all statutory bodies representing medical schemes, employers organisations, trade unions, principal officers of medical schemes and the Council for Medical Schemes.
  - (b) Ensuring that all relevant health services are adequately accessible to members of income tiered benefit options.
- (3) These regulations shall consist of:

- (a) The updated income brackets according to the formulae in Chapter 2, subsections (3) and (4)
  - (b) The maximum cost allowed for income-tiered benefit options A and B for principal members, as well as adult and child dependants.
  - (c) The medical scheme fees tax credit at 40% of Option A maximum cost for principal members and first dependants.
  - (d) The minimum employer contribution at 30% of Option A maximum cost
  - (e) The prescribed minimum benefits that must be offered by Option A and Option B respectively and exclusively.
  - (f) Prescribed minimum benefits for income tiered options which may differ from prescribed minimum benefits for other benefit options, but may not exceed them
  - (g) The amounts calculated in this subsection may only be adjusted for rounding up to the nearest R10 for ease of reference.
- (4) The amount calculated according to 3(c) shall be the medical scheme fees tax credit amount for all members of medical schemes across all benefit options
  - (5) The amount calculated in (3)(d) shall be the minimum employer contribution for all members of medical schemes across all benefit options.

## **Chapter 4**

### **Exemption from Prescribed Minimum Benefits**

- (1) Medical schemes may offer benefit options that do not contain all prescribed minimum benefits, provided that
  - (a) The option is clearly labelled as a reduced benefit option in all marketing material, information material and product brochures.
  - (b) Prescribed minimum benefits that are not covered are listed in a manner that is easily understood by consumers.
  - (c) The benefit option is not an income-tiered benefit option as established in Chapter 2.

## **Chapter 5**

## Repeal and amendment of legislation affected by act

No. and year of Act	Short Title	Extent of repeal or amendment
Act no. 20 of 2023	National Health Insurance Act, 2023	Repealed in its entirety
Act no. 61 of 2003	National Health Act, 2004	<p>By the insertion of the following section after (3) (c):</p> <p><u>(d) exceptions in (3)(a) and (3)(b) do not apply where the relevant medical aid scheme or the health care user's benefit option does not provide for a specific health care product or service that is sought by the user.</u></p> <p>By the repeal of sections (36) to (40).</p> <p>By the repeal of subsections (78)(c), (78)(g), (78)(i), (79)(2)(a), 79(2)(b), (79)(4)(ii), (79)(7)(b), (79)(7)(c)</p>