

Major legal changes in health care

There are four key legislative areas, which will be significant in the industry this year. These include the Competition Commission Enquiry into the healthcare industry, amendments to the Demarcation Act, proposed amendments to Regulation 8 of the Medical Schemes Act, and the ultimate planned introduction of the National Health Insurance (NHI).



©feverpitched – 123RF.com

The South African healthcare industry has been experiencing rapid and varied changes over the last decade or so and the last year in particular has seen a number of issues coming to a head. Healthcare is a major priority for the public in general and yet information around developments is not always clear to the layperson. Education therefore continues to be a crucial factor.

Competition Commission enquiry into the healthcare industry

Costs in the healthcare sector have been rising at a rapid rate for many years, placing both medical schemes and consumers under intense financial pressure. While we would welcome all stakeholders working together to deal with this crisis, the solution may come only through proactive moves by regulators.

Now that the competition commission initial phases have been completed, as of October 2014, we are awaiting results and a series of public hearings to clarify what the outcomes will be, and what effect this will have on various stakeholders. This is a massive project, and as a result the initiative has been extended in order to effectively analyse the large volume of information gathered. While many may be impatient to understand the results, it is encouraging to see such attention and detail going into the various relevant investigations. This is set to be a key factor for 2016.

The biggest concern if rising healthcare costs are not contained is that consumers may opt to cut or cancel their healthcare cover entirely. Consumers have faced myriad rising costs over the last few years. It is of concern that more and more South Africans may begin to view healthcare cover as a luxury, rather than an essential item.

Demarcation Act

The overarching objective of the Demarcation Act is to set out the differences between the business of a medical scheme

and the business of for-profit insurance companies, by making amendments to regulations made under Section 70 of the Short-term Insurance Act of 1990.

The intention is to separate clearly health insurance products from medical scheme products, as well as to ensure the regulation of the offerings from both medical schemes and health insurance providers. The Act will set out to mandate that any business deemed a medical scheme might only be carried out by medical schemes. This will take away much of the ambiguity in current legislation, and assist with protecting consumers from being misled.

The proposed changes will have an impact on medical schemes and affected healthcare insurance companies alike. Many consumers do not understand that some healthcare insurance products are positioned as offering the same type of protections as a medical scheme, but in reality they do not, meaning that affected consumers who have taken out a healthcare insurance product may be left with unexpected expenses in the event of a medical crisis.

Going forward, insurance companies and medical schemes will need to collaborate closely. Overall, we believe that this is an extremely good piece of legislation, of a high quality and set out to be ready for publication in the Government Gazette fairly soon.

Low cost benefit option

Some months ago, the Council of Medical Schemes began discussions with medical schemes regarding the implementation of a low cost benefit option, regarding mandatory minimum packages and conditions. While the intentions are positive, this particular initiative will likely require further investigation in order to ensure it is relevant. While the range of diagnosis requirements covers a broad variety of conditions, very few fall into the cover and treatment requirements. It will be interesting to see how the medical scheme industry as a whole will approach this topic during 2016.

Proposed amendments to Regulation 8 of the Medical Schemes Act

Regulation currently states that medical schemes must pay for the treatment of Prescribed Minimum Benefit (PMB) conditions in full at the cost provided by the service provider. PMB conditions set out a list of around 300 medical conditions including medical emergencies, chronic conditions and dread diseases such as cancer. However, the provision for payment in full has proved problematic for many medical schemes, as the Act has not defined payment tariffs for PMBs. This legislation, which provides for no cap to costs, has resulted in over-inflated pricing by some service providers.

Already published for comment, the amendment proposes that the interpretation of the Council of Medical Schemes (CMS) differs from that of the Department of Health. It is crucial for the Department of Health to ensure that the wording is clear to mitigate the risk of misinterpretation of regulation 8.

The amendments are intended to ensure that medical schemes remain sustainable and that, going forward, there will also be financial benefits for medical aid members. Profmed is playing an active role in this project.

National Health Insurance (NHI)

Following the release of the Green Paper on the proposed National Health Insurance some four years ago, the long-awaited follow-up White Paper was published in the Government Gazette on 11 December 2015. The public has three months to provide comments on its contents from this date.

In essence, the White Paper presents a National Health Insurance Scheme (NHI) to provide access to healthcare for all South Africans. While this commitment by Government to address critical national healthcare needs is welcomed, the legitimacy of the proposal and its potential to be effectively carried out is currently a key debating point. We see a number of areas of concern in the NHI paper, including constitutionality issues, quality of service, the provision of services, as well as payment and property issues.

Due to these ongoing hurdles, we do not expect the NHI to be initiated in the short term.

Conclusion

The Demarcation Act, the introduction of a Low Cost Benefit Option and the changes to Regulation Act of the Medical Schemes Act are all geared towards bringing the costs of healthcare down, which is an ongoing focus area for South Africa. The introduction of the National Health Insurance (NHI) remains on the table and we expect this issue to continue to be discussed at industry and legislative level, without necessarily achieving final resolution by year end 2016.

For more, visit: <https://www.bizcommunity.com>