Industry Snippets

Industry update – Quarter 3 – September 2014

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This document highlights the most salient industry developments over the past Quarter. It does not aim to provide a detailed analysis of the events, but rather an overview of the key events. Should the reader require further detail on any of the aspects discussed, please feel free to contact NMG Healthcare.

Investigation against Registrar of Medical Schemes

The investigation into allegations of corruption against Dr Monwabisi Gantsho, the Chief Executive and Registrar of Medical Schemes is continuing. Dr Gantsho was suspended after Mr Langa, the previous curator of Medshield, publicly alleged fraudulent activity. CMS stated that it is not clear when the investigation will be completed. Mr Daniel Lehutjo is currently acting as Registrar and CE.

NHI update

Initial plans were for NHI to start off in 2012 and be implemented over a period of 14 years. One of the first phase projects was the development of infrastructure to make healthcare accessible in areas with very little access to quality healthcare. Two prominent people in the healthcare industry were relaying in the press that the Health Minister had a target of 600 doctors who would contract to provide services in these districts but that only 96 private doctors have signed up. This is due to dissatisfaction with the payment structure. This indicates that NHI is already behind and as a result, it is unlikely that NHI will affect medical scheme membership in the next 5 years.

Certificates of Need

After lots of controversy the promulgation of Sections 36 and 40 of the National Health Act were withdrawn in July 2014 after being promulgated in April 2014. These sections contain provisions that require all health establishments, ranging from GPs' rooms to private hospitals to obtain a certificate of need from the Department of Health by April 2016. According to the Act, the health director will decide whether a certificate of need is awarded based on a number of criteria, including whether the facility meets local needs, whether health services are distributed equitably and the financial viability of the establishment.

The Department of Health has postponed its implementation.

Draft regulations: Dispensing fees of pharmacists

In 2003, the Pricing Committee proposed a fee of 26% of the single exit price (SEP) capped at R26. Pharmacists responded quite fervently and a decision by the Constitutional Court in 2005 declared the 26%/R26 cap as inappropriate. Whilst the maximum dispensing fees are much higher, the reality is that these are often not being applied as a result of separate fee negotiations with medical schemes.

The draft regulations recently issued, introduce a tiered level of dispensing fees as follows:

- Where the SEP of a medicine is less than R85.70, the dispensing fee shall not exceed R6.95 + 46%.
- Where the SEP of a medicine is between R85.70 and R228.53, the dispensing fee shall not exceed R18.55 + 33%.
- Where the SEP of a medicine is between R228.53 and R799.85, the dispensing fee shall not exceed R59 + 15%.
- Where the SEP of a medicine is equal or greater than R799.85, the dispensing fee shall not exceed R140 + 5%.

The public has until mid-September to submit comments.

Draft regulations: Medicines and Related Substances Act

A further development on the pharmaceutical front, is the draft regulations published in August to clarify Section 18a of the Medicines and Related Substances Act, proposing a ban on rebates, bonuses and all other incentive schemes. The intention is to prevent pharmaceutical companies using the payment of "research" fees (pharmaceutical companies purchasing sales data from pharmacies) to induce purchases of their products. We expect that this will put further strain on independent pharmacies.

Demarcation Regulations update

NMG has issued communication previously pertaining to the Second Draft of the Health Insurance Demarcation Regulations. Whilst it was expected that the Final Demarcation Regulations would be published by September 2014, it is now envisaged that this will be released later in 2014.

Competition Commission Inquiry update

The Competition Commission Inquiry into the Private Healthcare sector came to a halt after Netcare submitted a High Court application to prevent accounting and auditing firm, KPMG from being involved in the inquiry. Netcare argued that KPMG was conflicted due to the fact that KPMG has done work for Netcare in the past and had access to Netcare's confidential information.

The High Court dismissed Netcare's case which means that the inquiry has been given the green light to go ahead.

CMS Press Release: Legal assistance to members

The CMS together with ProBono.Org have set-up a Pro Bono Panel for medical scheme members. This service is offered to members of medical schemes who are in dispute with their funds and cannot afford legal representation when their case is presented before the CMS Appeals Committee or Appeal Board. Legal representatives will render free services to members of medical schemes. CMS approached ProBono.Org to assist beneficiaries of medical schemes in selected cases. CMS selects and refers certain cases to ProBono.Org who in turn facilitate the provision of free legal services through the volunteerism of a panel of private attorneys. The CMS Legal Services Unit together with ProBono.Org will use their discretion to refer matters where members have clearly suffered hardship. Some of the considerations will include the monetary value involved as well as the condition the member suffers from.

CMS Circular 41 of 2014 – Trustee remuneration

After allowing for a period of commentary since issuing Circular 45 of 2011 and the subsequent study performed by Ernst and Young in 2013, CMS issued Circular 41 of 2014 in respect of guidelines for Trustee remuneration. From the study, it was found that there is no common standard for determining trustees' remuneration within the industry. In terms of Section 6A of the Medical Schemes Act, the rules of medical schemes need to make provision for the disclosure of trustee remuneration in the annual financial statements but there is no guidance in terms of such remuneration.

It is CMS intention to review the provisions of Regulation 6A of the Medical Schemes Act in order to address any gaps.

In the interim, CMS issued some guidelines, the following points give an abbreviated overview of the **"Guideline in respect of Trustees Remuneration":**

1. All the medical schemes must ensure that the role of a trustee is clearly defined in the schemes' rules.

2. The Board appoints the executive to manage the day to day affairs of the medical scheme while the trustees deal with the long term sustainability of the scheme.

3. The Board delegates the collective management responsibilities to the Principal Officer. The Principal Officer therefore executes the Board's decisions.

4. Medical schemes should apply the principles of the KING III Report and should therefore remunerate their trustees taking the principles of the KING III Report on Governance and Remuneration Practice Notes into account.

5. All the medical schemes that choose to remunerate their trustees should develop a Trustee Remuneration Policy which clearly sets out the scheme's approach to trustee remuneration.

6. Since the role of a medical scheme trustee is akin to that of a non-executive, it is difficult to motivate why the fee structure for a medical scheme's trustee should be significantly different to the fee structure of a non-executive director. Fees payable to non-executive directors of JSE listed companies or private companies are not an appropriate reference point for comparison or benchmarking purposes. This is due to the important and distinguishing fact that medical schemes are non-profit organisations.

7. No medical scheme should pay trustees any remuneration for attending conferences or training events over and above the attendance or accommodation costs.

8. Section 29(c) of the MS Act provides that the rules of a medical scheme shall provide for the remuneration of officers of a medical scheme. Accordingly, all the medical schemes that remunerate their trustees are hereby directed to ensure that their rules clearly define the manner in which they reimburse or remunerate their trustees as well as the process involved in determining such reimbursement or remuneration.

9. All the medical schemes that remunerate their trustees must ensure that the fees payable to trustees are approved by the members in advance during the AGM and not retrospectively. This proposed remuneration must be made available to members at least 21 days prior to holding the AGM.

Taking the above points into consideration, all the medical schemes that remunerate their trustees are requested to report in writing to the Office on the measures taken to further the implementation of the guideline."

Schemes are to submit such a report by 28 November 2014.

CMS Report - 2014

Please refer to the following page for an infographic on the key findings from the 2014 CMS report.

There is an open invitation for you to please contact your NMG Healthcare consultant or myself on 082 574 9403 or tkouskos@nmg.co.za, should you wish to raise any matter relating to the NMG Benefits service offering or pertaining to the healthcare industry in general.

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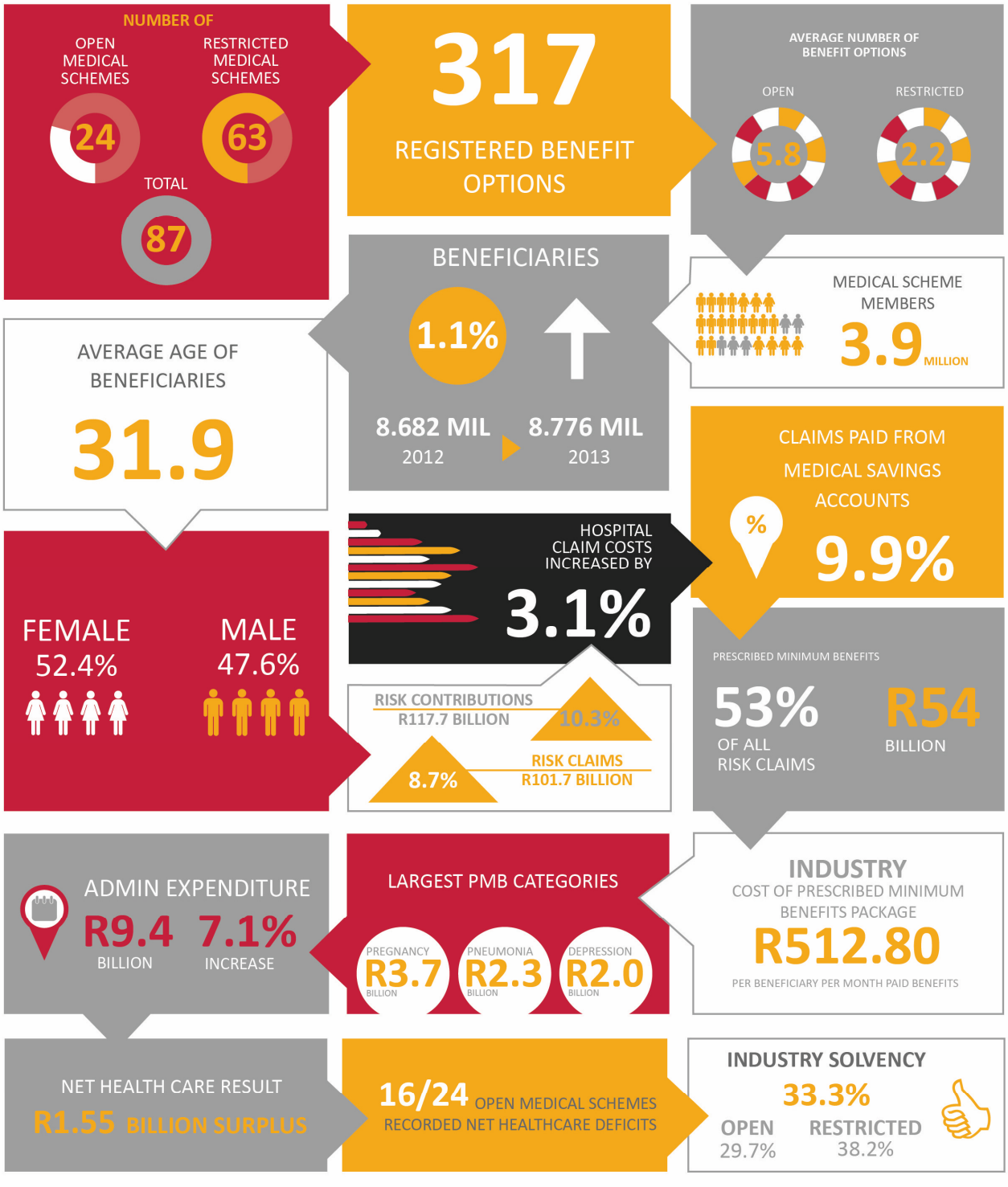
Council for Medical Schemes Annual Report 2013-2014



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