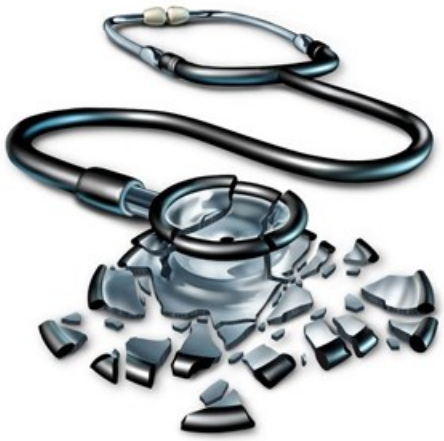
Mind the gap: Demarcation Regulations and universal healthcare

A healthy nation is a cornerstone of socioeconomic growth, and besides ensuring basic services such as clean water and sanitation, quality healthcare is also a right. Therefore, a proper approach is ultimately required, and the government is responsible for creating the framework within which healthcare is promoted and and delivered.



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In the National Health Plan (NHP), Government has considered these objectives. The National Development Plan (NDP), which provides the long-term strategic plan of the government, also recognises quality healthcare as one of its goals.

There are various health insurance products which are closely linked to the provision of healthcare. One of these is medical expense shortfall insurance, also referred to as gap cover, an insurance product underwritten in terms of the Short-term Insurance Act. This product is designed to cover the shortfall between medical scheme benefits and the rates that private medical care providers may charge. Gap cover is typically only available to those that already belong to medical schemes.

Medical schemes operate on the core principle of social solidarity. These schemes cross-subsidise risk by pooling members from a wide spectrum of the population, for instance young, old, healthy and sick individuals. The contributions of members are universal, depending on the plan you select, the monthly contribution of each member is the same. This is what is referred to as community rating. The benefits within medical schemes are also pre-determined, and includes a list of prescribed minimum benefits, or the conditions (such as hypertension or diabetes) that the medical aid has to cover by law. Anyone that applies for membership can join the scheme no matter their age, health status, race or gender. These mechanisms contribute to the affordability of schemes and provide access to quality private healthcare.

In contrast, gap cover is underwritten by insurers that apply normal underwriting principles in pricing these products, meaning that risk factors such as age, health status, etc. are taken into account to arrive at a price which aligns with the insurer's risk appetite.

The dilemma is that the availability of gap cover encourages younger and healthier, and therefore less risky, members of medical schemes to 'buy down' or opt out of schemes entirely and cover the gap between the benefit under the scheme option and the actual medical expense. The loss of these less risky members from medical schemes tips the scales towards an older and less healthy average member remaining in the scheme and thus impeding on the principles of cross-subsidisation which ordinarily improves the affordability of medical schemes. As a result, medical cover for the older and less healthy members left in the scheme becomes more expensive.

This problem has been amplified, amongst others, by the following:

- Financial advisors earning higher commissions for selling gap cover as opposed to medical schemes products, and
- advisors misleading customers by marketing health insurance policies as alternatives to medical schemes cover.

This ultimately led to the National Treasury (NT) and the Department of Health (DoH), in conjunction with the Financial Services Board (FSB) and Counsel of Medical Schemes (CMS) – collectively referred to as the regulators – putting their heads together to come up with a solution.

There is, however, an alternate view that the target market for health insurance products is in fact those in society who are not able to afford traditional medical aid cover and that consumers take up health insurance products because they cannot afford medical schemes or their existing scheme does not cover their medical expenses in full, leaving them out of pocket to settle outstanding medical expenses.

The Demarcation Regulations

As a starting point, the Financial Services Laws General Amendment Act widened the definition of the "business of a medical scheme", resulting in the inclusion of some health insurance products. Affected insurers would therefore need to be registered as a medical scheme and need to comply with the Medical Schemes Act (MSA).

As a result, the Demarcation Regulations, made under the Long- and Short-term Insurance Acts, became effective on 1 April 2017. These specify the types of contracts regulated under the Long- and Short-term Insurance Acts and therefore which contracts are excluded from the MSA.

The regulations will allow insurers to continue to provide gap cover products but they must be structured in a manner that complements medical schemes and will be subject to strict underwriting and marketing conditions. Thereby, effectively levelling the playing field for those health insurance products that pose a threat to the medical scheme environment and those products issued by medical schemes.

This includes:

- A policy benefit limit of R150,000 per insured person per year must be applied across all gap cover products.
- The commission which advisors will receive will also be adjusted. The new regulations provide a sliding scale with 5% being the lowest commission level and 20% the highest commission level. The maximum percentage will apply to monthly premiums less than R300.Gap cover has to be underwritten on a group basis, meaning no individual risk rating is applied, and therefore no discrimination based on race, health status, etc., against an individual policy holder is allowed.
- No variation to an individual's policy can be made as a result of claims experience. Variations can only be made on a

group basis as whole.
- There are stricter marketing rules aimed at ensuring that customers are not misled.

Current developments

The Treasury agrees that more needs to be done to lower the high medical schemes costs for consumers and supports the Competition Commission inquiry into the high costs of private healthcare. The inquiry is essentially an investigation into the state, nature and form of competition in the market and was initiated to determine features of the private healthcare sector that prevent, distort or restrict competition. The NT and the FSB are also working together to improve market conduct practices in medical schemes.

The DoH and CMS are taking concrete steps to develop a low-cost medical schemes option that can be provided under the MSA, in order to ensure that more low-income households can access medical schemes and the government through the DoH and the NDP has realised that it is time for the country to move to universal health coverage where everyone receives the quality healthcare regardless of their economic status and this universal health coverage is envisaged by the National Health Insurance system.