

August 14, 2007

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TO: PRINCIPAL OFFICERS OF ALL MEDICAL AID FUNDS

CIRCULAR LETTER: PI/MA/1/2007

RE: DISCOUNTED MEMBERSHIP FEES CHARGED BY MEDICAL AID FUNDS

1. BACKGROUND

The Registrar has recently been alerted to Medical Aid Funds offering discounted membership fees to new groups that join the fund or the existing groups, which the funds wish to retain. The purpose of this circular is to inform the Funds of the laws under which they operate, and should comply with. Furthermore, the circular will also inform funds on the enforcement actions that the Registrar is empowered to take against a Fund, which continues to offer discounted fees to new groups.

The Registrar emphasises that medical aid funds operate on cross-subsidization. Therefore, discounted fees might have the effect of benefiting only some fund members. Discounting of membership fees may also put the reserves of a fund at risk.

2. THE LEGAL POSITION

Section 31 (1) of the Medical Aid Funds Act ("the Act") provides that *"Subject to the provisions of this section, a registered fund may, in the manner directed by its rules, amend or rescind any of such rules or make any additional rule but, notwithstanding the provisions of any other law no such alteration, rescission or addition shall be valid unless it has been approved by the Registrar and registered under subsection (2)"*.

In terms of section 30 (1) of the Act *"every registered fund shall have rules in which provisions shall be made [for]- (n) if any membership fee is payable, the amount thereof or the basis on which it is calculated"*. Consequently, the rules of the fund when approved by the Registrar include the membership fee that members of the Fund would be required to pay. Therefore, when a Fund reduces the membership fee that is approved by the Registrar the Fund is in effect charging a membership fee not approved by the Registrar and would therefore be in contravention of the provisions of the Act.

The Trustees of a Fund might be held accountable in terms of section 45 of the Act. Section 45 (1) provides that *"Any person who contravenes any provision of this Act or fails to comply with any request or requirement made thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding N\$ 10 000.00 or to imprisonment for a period not exceeding 10 months or to both such fine and such imprisonment."*

Furthermore in terms of regulation 3(1) of the Regulations made under the Act *"No registered fund..... shall pay or offer to pay or cause to be paid or offered any reward to any person –*

(a) for introducing any person as a new member of such fund; or (b) for consenting to retain any person as a member of the fund. The offering by the Fund of discounted membership rates to employer groups results in a saving (reward) for the new group in moving their medical aid business to the Fund or the existing group that is retained by the Fund. Consequently the fund may well be in contravention of regulation 3 and can therefore be held accountable in terms of regulation 13 of the Regulations, relating to sanctions that may be imposed on for contraventions of the Regulations.

3. **CONCLUSION**

Funds are advised to forthwith desist from offering discounted membership fees to entice new membership or retain existing groups. Those funds who fail to comply with the legal requirements will unfortunately invite enforcement action to ensure compliance.



Rainer Ritter

REGISTRAR: MEDICAL AID FUNDS