

Schemes battle doctor group at tribunal

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The South African Medical Association (Sama) and the Council for Medical Schemes are to square off at the Competition Tribunal on Tuesday in their long-running row over how specialists bill patients.



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The outcome of the case is important because it may affect how medical schemes reimburse members.

Sama is the country's biggest doctor organisation and has members employed by the public and private sector.

The council is a statutory body that is responsible for regulating the medical schemes industry and protecting consumers' interests.

The council is alleging the South African Paediatric Association and the Society for Cardiothoracic Surgeons in SA have engaged in price-fixing with Sama, breaching the Competition Act. Both associations are Sama members.

The council alleges Sama has engaged in a prohibited horizontal practice by endorsing the billing practices of these associations, which use extra billing codes not included in the National Health Reference Price List (NHRPL) published by the council in 2006.

The constraints of competition law mean the NHRPL codes and prices are not binding, but in practice many medical schemes use them to determine reimbursement for members. Many medical schemes will not pay for codes that are not included in the NHRPL, leaving patients with substantial co-payments.

Doctors say the codes are outdated and no longer reflect current practice.

"If the [council] wins, those associations won't be able to bill [with] these [extra] codes," said Alicia Schoeman, the council's legal adviser.

Sama chairman Mzukisi Grootboom declined to comment. At the tribunal hearing, Sama will ask for an order dismissing the council's complaints, which were lodged in July 2013, or compel the council to provide more detail of its alleged price-fixing.

The council lodged two complaints with the Competition Commission in May 2012, alleging that the tariffs set by Sama in 2009 allowed paediatricians to bill an extra 50% above the medical aid rate for newborn babies needing intensive care.

It also complained about the billing guidelines published by the Society for Cardiothoracic Surgeons of SA, saying they enabled specialists to add spurious codes to bump up bills.

The Competition Commission investigated the council's complaints and said they had merit, but decided not to prosecute because an inquiry into the private healthcare market was under way and was set to cover the same ground.

The council then decided to approach the Competition Tribunal directly.

Sama challenged the council's move by taking the matter on review to the high court. It also asked the tribunal to place the matter on hold pending the outcome of the review application and the outcome of the Competition Commission's healthcare market inquiry.

The tribunal agreed to put the council's complaints on hold pending the high court review application, but did not make a finding regarding the inquiry.

The council then challenged the tribunal's decision in the Competition Appeal Court, which found in its favour.

Source: Business Day

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