How will the NHI Bill affect employer medical aid contributions?

By Lauren Salt and Rui Lopes

5 Feb 2019

There has been a lot of hype around the proposed National Health Insurance Bill, 2018 (NHI Bill) and the numerous implications for South African citizens. Little has been said, however, about how the NHI Bill will impact on the provision of medical aid benefits in the employee context.

© Wuttichai Nanchaikan – 123RF.com

The NHI Bill aims to enable access to free, universal, high-quality healthcare for all, by creating a single national health insurance fund. The NHI Bill will, once promulgated, centralise the procurement of medical supplies by the State. A key feature of the NHI Bill is the establishment of the National Health Insurance Fund (NHI Fund).

Membership of the NHI Fund will be mandatory for all South African citizens. Currently, the NHI Bill is silent in relation to how the contributions towards the NHI Fund will work, but the Department of Health has indicated that everyone that can afford to do so will be liable to contribute towards the NHI Fund. It appears that contributions to the NHI Fund would be in addition to any medical aid scheme premiums, if individuals should choose to remain members of a private scheme. It is envisaged that all healthcare will be accessed free of charge through the NHI Fund.

It has been suggested that one of the options for funding the NHI would be via a withholding tax, similar to Pay as You Earn (PAYE). This would then be paid over to the NHI Fund by the employer.

Accordingly, once the NHI Bill is promulgated, employers will most likely have to contribute towards the NHI Fund and it appears that they would no longer be expected to contribute to private medical aid schemes on behalf of their employees, unless they elect to make both contributions.

Where an employer chooses to cease making private medical aid contributions on behalf of its employees, as a result of the introduction of the NHI Fund, this may result in a unilateral change to the employees' terms and conditions or a potential unfair labour practice relating to the withdrawal of benefits. This is especially the case if the changes are not effected in the appropriate manner.

For those employees who decide to stay on a private medical aid scheme in addition to contributing to the NHI Fund, the draft Medical Schemes Amendment Bill has made several changes to the current system which appear to be advantageous for medical scheme members. It abolishes co-payments, requires medical aid schemes to make full payment of the patient's expenses, and removes medical aid brokers. If these amendments are passed, medical aid scheme members who have raised concerns about above-inflation premium increases and exposure to co-payments should see immediate improvements. However, the changes could also potentially cause medical aid schemes to raise member contributions to cover their increased obligations.

While a substantial amount of detail is still to be fleshed out in the regulations, implementation of the NHI is currently targeted for 2025. In the interim, employers should consider whether they would want to cease contributions to their employees' private medical aid scheme. In order to potentially cap their (future) liability and curb any headaches associated with trying to escape double contributions later, employers should consider building the present value of their contributions into their employees' gross remuneration packages, requiring them to facilitate their own medical aid membership in the future. The effect of this will, at the very least, mitigate financial risk concomitant with increased premiums following the promulgation of the NHI Act.

ABOUT THE AUTHOR

Lauren Salt is a senior associate and Rui Lopes, an associate designate, in the Employment & Compensation Practice of Baker McKenzie Johannesburg.