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Reference: CMS79786
Date: 10 March 2023

NOTICE OF NO-JUSTICIABILITY: COMPLAINT AGAINST VARIOUS MEDICAL SCHEMES AND THEIR ADMINISTRATORS

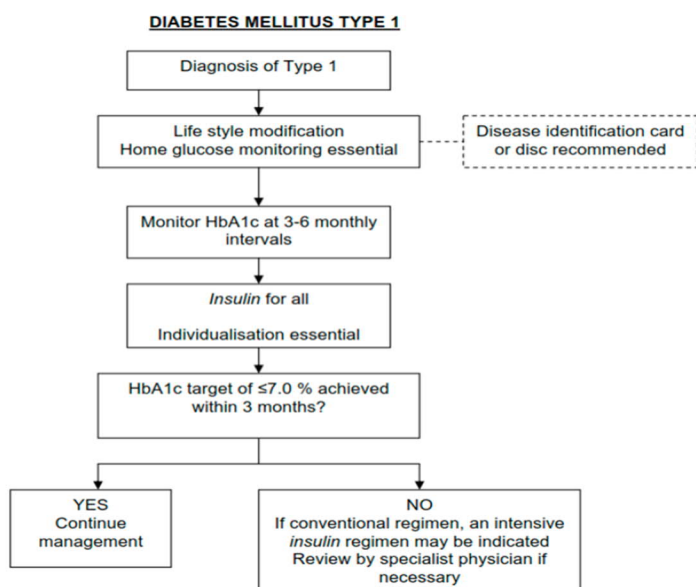
COMPLAINT

1. We refer to the above matter.
2. We confirm that we have analyzed your complaint to determine if it warrants a formal investigation by the Registrar. Based on the information before us, and for reasons explained below, the complaint is deemed to be non-justiciable and as a result, we have made a decision not to pursue an investigation in this regard.
3. In your complaint you indicate that you are acting on behalf of SA Diabetes Advocacy and persons diagnosed with Type 1 Diabetes. You opine that Type 1 Diabetes is a Prescribed Minimum Benefit condition (PMB) and most medical schemes including their administrators are declining to fund Continuous Glucose Monitoring devices ("CGMs") for the management of this condition. You indicate that they either exclude funding for the CGMs, impose co-payments or fund it on an ad hoc basis.

4. You allege that CGMs are clinically necessary for persons with Type 1 Diabetes because they prevent harm, address ineffectiveness of treatment, keep patients out of hospital and avoid emergency situations that occur due to rapid changes in patients' blood glucose levels.
5. Even though the recourse required is not clearly stated out in the complaint form, we will assume that the recourse is for all medical schemes and their administrators to fund CGMs from risk benefits without any penalty to members diagnosed with Type 1 diabetes.

ANALYSIS OF FACTS

6. Type 1 Diabetes Mellitus is a PMB condition under the Chronic Disease List. The treatment component specified for this condition according to the PMB Regulations, is medical management. According to the latest CMScript on Type 1 Diabetes, treatment and care include urine tests, blood tests, blood glucose test strips for home testing and other required monitoring services. The script further indicates that management of this condition according to the PMB CDL algorithm is specified as follows:



7. You will note that the above algorithm makes provision for home glucose monitoring. This means that medical schemes must make provision for home glucose monitoring devices and fund same in full and as PMB level of care for the condition. Regulation 8(1) of the Medical Schemes Act, obligates medical schemes to fund PMB related

claims in full. However, Regulation 8(1) must not be read in isolation and must be read together with other sub provisions of Regulation 8 including Regulation 8(4) which states the following:

“...these regulations must not be construed to prevent medical schemes from employing appropriate interventions aimed at improving the efficiency and effectiveness of health care provision, including such techniques as requirements for pre-authorization, the application of treatment protocols and the use of formularies”

8. According to the above provision, medical schemes are allowed to employ health care interventions were appropriate. Furthermore, the explanatory note to the Type 1 diabetes algorithm clearly states that medical schemes in employing healthcare interventions, must ensure that same is “developed on the basis of evidence based medicine, taking into account considerations of cost-effectiveness and affordability..”[own emphasis]. You will note that the Legislature did not define or describe the home glucose monitoring devices or equipment to be used, this is purely because medical schemes are allowed to fund that which is evidence based, cost-effective and affordable. These interventions are meant to ensure the long-term liquidity of medical schemes.
9. In the absence of evidence confirming that the blood glucose test strips currently funded by medical schemes are not cost-effective nor evidence based, we are not in the position to issue a general directive to medical schemes and their administrators to fund a specific device as PMB level of care. We will however adjudicate on individual complaints received and consider the clinical merits of each case thereof. A member of a medical scheme is therefore welcome to lodge a complaint with our office whereupon same will be adjudicated on the clinical evidence presented.

DECISION

10. In conclusion, please note that we will not be pursuing an investigation in this matter as there is no evidence of contravention of the Medical Schemes Act or its regulations.
11. Please note further that if you are aggrieved with this decision, you are welcome to lodge an appeal to the Council in terms of the provisions of Section 48(1) of the Act. An appeal contemplated in terms of subsection (1) shall be in the form of an affidavit directed to the Council and shall be furnished to the Registrar not later than three months, or such further period as the Council may, for good cause shown, allow, after the date on which the decision concerned was made. The notice and grounds for appeal should be sent to appeals@medicalschemes.co.za.

You are cordially requested to quote reference number **CMS 79786** on all future related enquiries.

Sincerely

Lebogang Mokalake
Senior Legal Adjudication Officer
OFFICE OF THE REGISTRAR