

Disputes Committee Terms of Reference



1. Purpose of the Terms of Reference

This Terms of Reference provides the framework within which the Alliance-Midmed Medical Scheme (“Alliance-Midmed” or “the Scheme”) Disputes Committee of must conduct its business.

2. Guiding Principles

- 2.1. All disputes must be handled, both procedurally and substantively, within the framework created by the law of administrative justice.
- 2.2. The Disputes Committee must act independently and impartially in all matters before it.
- 2.3. All disputes must be handled speedily, informally and in a non-adversarial manner.
- 2.4. Information will be managed in accordance with the Protection of Personal Information (POPI) Act.

3. Composition of the Disputes Committee

- 3.1. The Board of Trustees must appoint the members of the Disputes Committee in accordance with the Rules of the Scheme.
- 3.2. The Disputes Committee consists of 3 (three) members, who may not be members of the Board of Trustees, employees of the administrator of the Scheme or officers of the Schemes.
- 3.3. Members of the Disputes Committee are not required to be members of the scheme.
- 3.4. At least one member must have legal expertise.
- 3.5. The Disputes Committee has the right to co-opt person on an ad hoc basis, in order to assist the Committee with the execution of its functions.

4. Terms of Office

- 4.1. Disputes Committee members are appointed for 3 (three) year terms.
- 4.2. Members may be re-appointed by the Board of Trustees for further terms, upon expiry of their terms of office.
- 4.3. Vacancies on the Disputes Committee shall be filled by the Board of Trustees.

5. Chairperson of the Disputes Committee

- 5.1. The Disputes Committee must elect a chairperson from amongst its members.
- 5.2. The chairperson shall have the powers and functions as set out in this Terms of Reference.
- 5.3. Should the chairperson not be available for a hearing or a meeting of the Committee, a chairperson shall be appointed by the remaining members for the duration of the particular case, and such chairperson shall have the same powers and functions as the chairperson of the Committee.
- 5.4. The chairperson shall preside over all meetings of and hearings held by the Disputes Committee.

6. Quorum

- 6.1. The quorum for the Disputes Committee is 2 (two) members present in person or participating when proceedings are held electronically.

7. Conflicts of Interest

- 7.1. Any member of the Disputes Committee, who is conflicted in any matter before the Committee, must recuse him- or herself from such proceedings.
- 7.2. Should two or more members be conflicted in a matter, the Board of Trustees shall fill the vacancies to enable the Disputes Committee to adjudicate a particular case.

8. Decision-Making

- 8.1. The Disputes Committee shall make decisions by consensus, if possible, otherwise by majority vote.
- 8.2. In the event of an equality of votes, the chairperson has a casting vote in addition to his/her deliberative vote.
- 8.3. Co-opted persons have no voting rights.

9. Powers and Duties of the Disputes Committee

- 9.1. The Disputes Committee has a duty to consider and adjudicate on a dispute referred to it and make a decision.
- 9.2. The Committee shall conduct its activities within the confines of the law and the Rules of the Scheme.
- 9.3. The Committee shall be entitled to obtain expert advice on any matter on which it must adjudicate after following the process stipulated by the Board of Trustees from time to time.
- 9.4. The Committee shall perform all the functions stipulated in this Terms of Reference, in the Rules of the Scheme or by the Board of Trustees.
- 9.5. The Committee shall determine its own procedures to be followed in respect of a specific dispute.
- 9.6. The Committee may hold meetings and conduct hearings by electronic means as may be appropriate.

10. Parties to a Dispute

- 10.1. In terms of Rule 28.3 the parties to a dispute could be a member, prospective member, a former member or a person claiming by virtue of such a member and the Scheme. A person claiming, "by virtue of such a member" could for example include a dependant, a curator and a service provider.
- 10.2. Parties may not be represented by a legal person at a hearing or any meeting held by the Committee to resolve the dispute.
- 10.3. The complainant may be assisted by another person at a hearing or any meeting held by the Committee to resolve the dispute such as an adult dependant or a fellow employee.
- 10.4. The parties to a dispute have the right to be heard by the Disputes Committee.

11. Outcomes of Disputes

- 11.1. The Disputes Committee shall provide its decision in respect of the dispute in writing substantiated by reasons within 7 (seven) days of the conclusion of the hearing, if applicable. If circumstances do not permit the giving of a decision within 7 (seven) days, it must be given within a reasonable time period. In the case of urgent matters, the decision of the Committee should be made known as soon as reasonably possible, but no longer than 7 (seven) days after the hearing.
- 11.2. The chairperson shall provide the parties with the outcome of the dispute and advise them of their right to appeal with the necessary details to enable them to lodge such an appeal.

11.3. The Committee may make recommendations to the Board of Trustees regarding the changes to be considered, for example in the Scheme Rules, including the Benefit Schedule, as well as practices, procedures and policies of the Scheme, if deemed appropriate upon the conclusion of the dispute.

12. Binding Force of Decisions and Appeals

12.1. The decisions of the Disputes Committee are binding upon the parties to the dispute.

12.2. Decisions may be appealed by any party to the Council of Medical Schemes in the form of an affidavit addressed to the Council and shall be furnished to the Registrar not later than three (3) months after the date on which the Dispute Committee's decision was made.

12.3. A party may also approach a competent court with an application for review or appeal of a decision of the Disputes Committee.

13. Confidentiality and Record-Keeping

13.1 The Disputes Committee acknowledge that the service it provides relate to Personal and confidential Information of the beneficiaries of the Scheme and other relevant Data Subjects and that most of the communication required with the beneficiaries and other Data Subjects may take place in electronic format.

13.2 The Disputes Committee shall ensure the integrity and confidentiality of the Personal Information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent:-

- Loss of, damage to or unauthorised destruction of the Personal Information; and
- Unlawful access to or Processing of the Personal Information.

13.3 In order to give effect to clause 13.2 the Service Provider shall take reasonable measures to:-

- Identify all reasonably foreseeable internal and external risks to the Personal Information in its possession or under its control;
- Establish and maintain appropriate safeguards against the risks identified;
- Regularly verify that the safeguards are effectively implemented; and
- Ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

13.4 The Disputes Committee shall:-

- Have due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of specific industry or professional rules and regulations;
- Process such Personal Information only with the knowledge or authorisation of the beneficiary as required by law or in the course of the proper performance of its duties;
- Treat the Personal Information which comes to its knowledge as confidential and shall not disclose it, unless required by law on in the course of the proper performance of its duties; and
- Notify the beneficiary immediately where there are reasonable grounds to believe that the Personal Information of a Data Subject has been accessed or acquired by any unauthorised person.

- 13.5 The Disputes Committee shall ensure that all its members who have access to Personal Information as intended in this Terms of Reference shall be bound by individual confidentiality agreements.
- 13.6 The Board of Trustees reserves the right to audit the Disputes Committee's compliance with the requirements stipulated in this clause 13 from time to time.
- 13.7 The Disputes Committee undertakes that in its obligations in terms of these Terms of Reference, it shall comply strictly with the law, including all statutes, regulations, ordinances, rules, directives and industry Codes of Conduct, binding court orders, judgments or decrees, and enforceable policies and binding orders, as may be applicable from time to time.
- 13.8 The Disputes Committee shall ensure that all proceedings are confidential and shall be conducted *in camera*.
- 13.9 All documentation, including the record and outcome of the proceedings are confidential unless the matter is taken on appeal by any party in which case information and documentation shall be disclosed as may be appropriate and required in terms of the law.
- 13.10 The decision of the Disputes Committee may be communicated to relevant third parties, if required to implement the decision.
- 13.11 Records of all documentation related to the dispute, including the recordings of hearings or transcripts of such recordings, must be kept in a confidential manner and for as long as may be required in terms of relevant legislation and scheme policies.
- 13.12 Decisions of the Disputes Committee may, in the interest of the general membership of the Scheme, be published in a summarised, anonymised form solely for the purpose of guiding and educating the membership as may be determined by the Principal Officer from time to time.

14. Remuneration

- 14.1. Experts used by the Disputes Committee shall be remunerated in accordance with the Remuneration Policy set by the Board of Trustees.
- 14.2. The Scheme shall cover all reasonable expenses relating to the hearing, including:
- 14.2.1. Travel and accommodation costs of the members of the Disputes Committee in accordance with the Remuneration Policy of the Board;
 - 14.2.2. Venue of and catering at the hearing;
 - 14.2.3. Recording of proceedings;
 - 14.2.4. Any other reasonable costs, which must be raised with the Principal Officer by the Chairperson.

15. Terms of Reference Review

- 15.1. The Terms of Reference of the Disputes Committee shall be regularly reviewed by the Board of Trustees of the Scheme.
- 15.2. Any changes in legislation will be incorporated into these Terms of Reference, where applicable, within 30 (thirty) days of promulgation.