

No limit on what doctors can charge you

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By Laura du Preez

Warning of "anarchy" in the pricing of medical services, the organisation that represents the country's doctors says it may mount a legal challenge to the removal of the "ceiling" on treatment tariffs.

You may need to be more careful about what you agree to pay when consulting a doctor following a decision by the body that regulates healthcare practitioners to scrap the "ceiling" on what you can be charged.

However, if you, as a medical scheme member, are treated for a prescribed minimum benefit (PMB), your doctor can charge any tariff and your scheme must pay, two recent medical scheme Appeal Board cases have confirmed. (See "Move could reduce cost of PMBs" below and "Schemes must pay your doctor's PMB bill in full" as related article below).

The statutory Health Professions Council of South Africa (HPCSA) has decided to scrap the tariffs it sets as the highest rates doctors may ethically charge without obtaining your informed consent. (Typically, the HPCSA's tariffs are three times the guideline tariffs used by medical schemes.) Up until now, if a doctor charged more than these rates without obtaining your consent, the HPCSA would have ruled that the doctor had overcharged you.

Although medical schemes represented by the Board of Healthcare Funders (BHF) have welcomed the move, doctors represented by the South African Medical Association (Sama) are alarmed by it and are seeking legal advice with a view to possibly challenging the HPCSA's decision.

If the decision is not challenged, it means there is no longer any limit to what doctors can charge for treating you.

However, the HPCSA says a doctor must obtain your written consent if he or she charges you more than what your medical scheme pays or, if you are uninsured, more than the guideline Reference Price List (RPL) tariffs.

Scheme members may therefore have greater certainty that their scheme will cover their medical bills, as long as they don't sign any forms agreeing to pay whatever the doctor charges.

The HPCSA says it has abandoned its so-called ethical tariffs as a result of the new process for setting guideline tariffs for schemes - the RPL (previously known as the National Health Reference Price List or NHRPL). The RPL was recently taken over by the Department of Health. The RPL is to be produced in terms of National Health Act regulations and is intended to reflect the cost of providing healthcare services in the private sector.

However, the department's role has been mired in controversy, and a list of guideline tariffs has not been produced since 2006, when the Council for Medical Schemes was responsible for it.

Pricing 'anarchy'

Sama warns that the HPCSA's move could expose you and the medical profession "to effective anarchy regarding the costing of professional medical services".

Sama issued a statement saying it is seeking an urgent meeting with senior HPCSA officials, has taken legal advice and is exploring "urgent legal remedies".

Professor Denise White, Sama's vice-chairperson, says the HPCSA's decision is impractical and Sama's executive committee will discuss the issue early next week.

Sama says the RPL process is far from complete and does not even closely reflect a costs-based fee system for private professional medical services.

Earlier this year, healthcare professionals were asked to submit studies showing what it cost to run their practices. Angering medical professionals, the Department of Health rejected many of these studies.

It published a draft 2009 RPL that largely reflected an 8.7-percent increase in the guideline tariffs used this year. The department said it would consider the health professionals' studies and implementing higher increases in only 11 of the 48 medical disciplines.

The period for comments on the draft list closed on October 10, and the Department of Health is expected to release another version of the 2009 RPL shortly.

The BHF, however, welcomed the HPCSA's decision to scrap its "ceiling" tariffs, saying it has long argued that

the tariffs contribute to the upward spiral in healthcare costs.

"We believe the HPCSA's decision will reduce the confusion faced by South African citizens at the point of healthcare services," the BHF's spokesperson, Heidi Kruger, says.

Individual schemes, however, warned the move could have both positive and negative consequences for you.

James van Vught, the principal officer of Oxygen Medical Scheme, says in the absence of a policed ceiling on tariffs, the market will dictate tariffs, and medical specialists are scarce and in demand. He says this could result in fairly significant increases in the fees charged by some "super" specialists, such as neurosurgeons and endocrinologists (who treat diabetics).

'Highly impractical'

Discovery Health has significant concerns about the HPCSA's move. Dr Jonny Broomberg, the general manager of strategy and risk management at Discovery Health, says it is highly impractical and onerous for doctors to obtain written consent about what to bill in each and every case. Discovery is concerned this could "interfere in the clinical nature of the doctor-patient relationship", he says.

Discovery is of the view that doctors should be remunerated fairly for their skills and experience, and have a right to choose at what level to bill, he says.

Broomberg says the RPL, once finalised, will not provide adequate compensation for all doctors, because there are significant variances between, for example, specialities and geographic areas.

Schemes should protect you from co-payments (when a scheme pays only part of the medical bill) where possible, he says. However, where these are unavoidable, you should have as much information as possible about the level of your potential co-payments, allowing you to make informed choices. You should have a right to choose which doctors to use, Broomberg says.

In line with this view, Discovery has set up various direct payment arrangements, and if members choose to use doctors who participate in them, they can avoid co-payments, Broomberg says.

Jeremy Yatt, the principal officer of Fedhealth, says he doesn't believe the HPCSA's decision will change the status quo. He says Fedhealth pays doctors up to 300 percent of the NHRPL because the scheme believes that is a reasonable rate and doctors think so too.

Yatt doesn't think doctors have the ability to bill schemes differently according to the rate at which schemes reimburse.

Earlier this year, the then Minister of Health, Manto Tshabalala-Msimang, proposed a bill amending the National Health Act to introduce a bargaining forum where healthcare providers and medical schemes could negotiate healthcare tariffs.

However, the bill has been delayed indefinitely owing to a change in the government's health policy and its intentions to pursue an as-yet-undefined national health insurance system, which will give everyone, regardless of whether or not they contribute to a scheme, access to a package of healthcare benefits.

Move could reduce cost of PMBs

The decision by the HPCSA to scrap the ethical, or ceiling, tariff for doctors could prevent practitioners from increasing their charges when treating medical scheme members for the PMBs, some medical schemes say.

The HPCSA's decision means doctors will have to charge the scheme's rates or get a patient to consent to a higher charge for both PMB and non-PMB conditions.

Although the accusations have angered some doctors, schemes say they are sometimes price-takers when it comes to the PMBs (benefits that by law all schemes have to provide) as doctors know schemes have to pay in full.

Schemes are obliged in terms of regulations under the Medical Schemes Act to pay for the PMBs in full unless the scheme has instructed members to use a particular provider and they don't.

Graham Anderson, the principal officer of Profmed, says the real benefit of the HPCSA's decision will be that doctors won't be able to work the PMB system to their advantage by charging higher rates for the PMBs.

Scheme feels vindicated

Neil Nair, the principal officer of the South African Municipal Workers' Union National Medical Scheme (Samwumed), says although most doctors charge the scheme's rates, about 10 percent of them increase their

rates for the PMBs.

He believes the HPCSA's decision vindicates Samwumed's recent unsuccessful case against a doctor.

In the case, Samwumed argued that doctors should be limited to charging the rate at which the scheme reimburses for the PMBs, and not be free to charge any rate. The Appeal Board decided against the scheme in this case and another, upholding the right of doctors to charge at any rate (see related article below).

However, Nair says in Samwumed's case before the Appeal Board, the fact that there was a ceiling tariff and that the doctor had not exceeded this ceiling was used to justify the doctor's charges for PMB services at rates that were higher than what the scheme ordinarily pays.

Stephen Mmatli, of the Council for Medical Schemes's legal department, says the council hasn't yet applied its mind to the implications of the HPCSA's decision. If similar cases arise following the HPCSA's decision, it could be a "totally different matter", he says.