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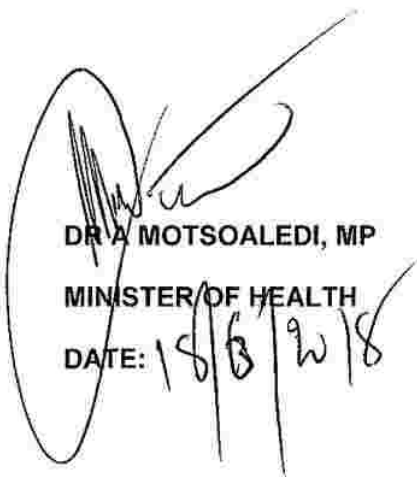
**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF HEALTH****NO. 635****21 JUNE 2018****NATIONAL HEALTH INSURANCE BILL, 2018**

I, Dr Aaron Motsoaledi, Minister of Health, having obtained Cabinet approval, hereby publish the draft National Health Insurance Bill, 2018 for broader public comment.

Interested persons are invited to submit any substantiated comments or representation on the proposed Bill to the Director-General of Health, Private Bag X 828, Pretoria, 0001 (for the attention of Deputy Director-General: National Health Insurance, Dr Anban Pillay or e-mail: [Anban.Pillay@health.gov.za](mailto:Anban.Pillay@health.gov.za), within three months of the publication of this Notice.



**DR A MOTSOALEDI, MP**  
**MINISTER OF HEALTH**  
**DATE: 18/6/2018**

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**REPUBLIC OF SOUTH AFRICA**

**NATIONAL HEALTH INSURANCE BILL**

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*(As introduced in the National Assembly (proposed section 76); explanatory  
summary of Bill published in Government Gazette No. 41725 of 21 June 2018)  
(The English text is the official text of the Bill)*

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**(MINISTER OF HEALTH)**

**[B —2018]**

## 2

## BILL

To provide mandatory prepayment health care services in the Republic in pursuance of section 27 of the Constitution; to establish a National Health Insurance Fund and to set out its powers, functions and governance structures; to provide a framework for the active purchasing of health care services by the Fund on behalf of users; to create mechanisms for the equitable, effective and efficient utilisation of the resources of the Fund to meet the health needs of users; to preclude or limit undesirable, unethical and unlawful practices in relation to the Fund and its users; and to provide for matters connected herewith.

## PREAMBLE

**RECOGNISING** the socio-economic injustices, imbalances and inequities of the past, the need to heal the divisions of the past and to establish a society based on democratic values, social justice and fundamental human rights and the need to improve the life expectancy and the quality of life of all citizens;

**BEARING IN MIND THAT—**

- Article 12 of the United Nations Covenant on Economic, Social and Cultural Rights, 1966, provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- Article 16 of the African Charter on Human and People's Rights, 1981, provides for the right to enjoy the best attainable state of physical and mental

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health, and requires States Parties to take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick;

- the right to equality and human dignity are enshrined in sections 9 and 10 of the Constitution, respectively and the right to bodily and psychological integrity is entrenched in section 12(2) of the Constitution;
- the right to have access to health care services, including reproductive health care, is provided for in section 27(1)(a) of the Constitution and in terms of section 27(2) of the Constitution, the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the right of access to health care services;
- section 27(3) of the Constitution provides that no one may be refused emergency medical treatment; and
- section 28(1)(c) of the Constitution provides that every child has the right to basic nutrition, shelter, health care services and social services;

**AND IN ORDER TO—**

- achieve the progressive realisation of the right of access to good quality personal health care services by South African citizens and permanent residents;
- ensure financial protection from the costs of health care and provide access to health care services by consolidating public revenue in order to actively and strategically purchase health care services based on the principles of universality and social solidarity;

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- create a single framework throughout the Republic for the public funding and public purchasing of health care services, medicines, health goods and health related products, and to eliminate as far as is reasonably possible the fragmentation of health care funding in South Africa;
- promote sustainable, equitable, appropriate, efficient and effective public funding for the purchasing of health care services and the procurement of medicines, health goods and health related products from service providers within the context of the national health system; and
- ensure continuity and portability of financing and services throughout the Republic,

**BE IT THEREFORE ENACTED** by the Parliament of the Republic of South Africa, as follows:—



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## Definitions

1. In this Act, unless the context indicates otherwise—

**"accreditation"** means the process contemplated in section 38;

**"Benefits Advisory Committee"** means a committee appointed by the Minister in terms of section 25;

**"Board"** means the Board of the Fund established in terms of section 13;

**"certified"** means that a health establishment or health agency must be in possession of a valid certificate of need as provided for inspection 36 of the National Health Act;

**"Chief Executive Officer"** means the person appointed in terms of section 21;

**"child"** means a person under the age of 18 years as defined in section 28(3) of the Constitution;

**"Constitution"** means the Constitution of the Republic of South Africa, 1996;

**"Contracting Unit for Primary Health Care"** means the Contracting Unit for Primary Health Care referred to in section 37(1);

**"Correctional Services Act"** means the Correctional Services Act, 1998 (Act No. 111 of 1998);

**"Department"** means the national department of health;

**"dependant"** means—

- (a) a spouse;
- (b) a child; or
- (c) any other person who is legally entitled to support from a person who is eligible to become a beneficiary of the Fund and who is registered as a user;

**"District Health Management Office"** means the District Health Management Office referred to in section 36(1);

**"emergency medical services"** means services provided by any private or public entity dedicated, staffed and equipped to offer pre-hospital medical treatment and transport of the ill or injured;

**"financial year"** means a financial year as defined in section 1 of the Public Finance Management Act;

**"Fund"** means the National Health Insurance Fund established by section 3;

**"health care provider"** has the meaning ascribed to it in section 1 of the National Health Act;

**"health establishment"** has the meaning ascribed to it in section 1 of the National Health Act;

**"health goods"** means goods for delivering health care services which include medical equipment, medical devices and supplies, health technology or health research intended for use or consumption by, application to, or for the promotion, preservation, diagnosis or improvement of, the health status of a human being;

**"health related product"** means any commodity other than orthodox medicine, complementary medicine, veterinary medicine, a medical device or scheduled substance which is produced by human effort or some mechanical, chemical, electrical or other human-engineering process for medicinal purposes or other preventive, curative, therapeutic or diagnostic purposes in connection with human health;

**"health research"** has the meaning ascribed to it in section 1 the National Health Act;



**"health service benefits"** means health service benefits contemplated in section 11(2);

**"health services"** means—

- (a) health care services, including reproductive health care and emergency medical treatment, contemplated in section 27 of the Constitution;
- (b) basic nutrition and basic health care services contemplated in section 28(1)(c) of the Constitution;
- (c) medical treatment contemplated in section 35(2)(e) of the Constitution; and
- (d) where applicable, provincial, district and municipal health care services;

**"hospital"** means a health establishment which is classified as a hospital by the Minister in terms of section 35 of the National Health Act;

**"Immigration Act"** means the Immigration Act, 2002 (Act No. 13 of 2002);

**"Medical Schemes Act"** means the Medical Schemes Act, 1998 (Act No. 131 of 1998);

**"medical scheme"** means a medical scheme as defined in the Medical Schemes Act;

**"Medicines Act"** means the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);

**"medicine"** means a medicine as defined in the Medicines Act;

**"Minister"** means the Cabinet member responsible for health;

**"National Health Act"** means the National Health Act, 2003 (Act No. 61 of 2003);

**"national health system"** means a health system as defined in the National Health Act;

**"payment"** means fees, allowances, reimbursements, loans and repayments in terms of section 39;

**"personal information"** means personal information as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

**"prescribed"** means prescribed by regulation;

**"primary health care services"** means services that include health promotion, disease prevention, curative services, and rehabilitative and palliative services;

**"procurement"** has the meaning ascribed to it in section 217(1) of the Constitution;

**"public entity"** has the meaning ascribed to it in section 1 of the Public Finance Management Act;

**"Public Finance Management Act"** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**"referral"** means the transfer of a user to an appropriate health establishment in terms of section 44(2) of the National Health Act;

**"Refugees Act"** means the Refugees Act, 1998 (Act No. 130 of 1998);

**"regulation"** means a regulation made in terms of section 52;

**"service provider"** means a health care provider and a health establishment;

**"this Act"** includes any regulation;

**"Treasury"** means the National Treasury established by section 5 of the Public Finance Management Act;

**"universal health coverage"** means a service that is available to all persons, including promotive, preventative, curative, rehabilitative and palliative health services, regardless of socio-economic or health status of those persons; and

**"user"** means a person, and his or her dependants, registered as users in terms of section 8(1), and includes a person registered as a beneficiary in terms of section 8(1).



**Application of Act**

2. (1) This Act applies to public and private health establishments but does not apply to military health establishments.

(2) This Act does not in any way amend, change or affect the funding and functions of organs of state in respect of health services until legislation contemplated in sections 77 and 214, read with section 227, of the Constitution and any other relevant legislation have been enacted.

**Part 1*****National Health Insurance Fund*****Establishment**

3. (1) There is hereby established a juristic person to be known as the National Health Insurance Fund.

(2) The Fund is a national public entity as defined in section 1 of the Public Finance Management Act.

(3) The Fund is the single public purchaser and financier of health services in the Republic.

(4) The Fund is a mandatory prepayment health services system.

**Objective of Act**

4. The objective of this Act is to establish a Fund that aims to achieve sustainable and affordable universal access to health care services by—

(a) establishing and maintaining an efficient Fund through the consolidation of revenue so as to protect users against financial risk;

- (b) serving as the single public purchaser of health services in terms of this Act so as to ensure the equitable and fair distribution and use of health care services;
- (c) ensuring the sustainability of funding for health care services; and
- (d) providing for equity and efficiency in funding by actively purchasing health care services, medicines, health goods and health related products from certified, accredited and contracted service providers.

#### **Duties of Fund**

5. (1) The Fund must—

- (a) take all reasonably necessary steps to achieve the objective of this Act and the attainment of universal health coverage contemplated in section 4;
- (b) actively purchase and procure health care services, medicines, health goods and health related products from service providers, health establishments and suppliers that are certified and accredited in accordance with the provisions of this Act, the National Health Act, the Public Finance Management Act and any other applicable law;
- (c) design health care services as advised by the relevant committee of the Board which will be purchased by the Fund on behalf of users;
- (d) enter into contracts with certified and accredited public and private service providers based on the health care needs of users;
- (e) establish rules and mechanisms by notice in the *Government Gazette* for the regular, appropriate and timely payment of health care providers, health establishments and suppliers;

- (f) determine prices annually after consultation with health care providers, health establishments and suppliers in the prescribed manner and in accordance with the provisions of this Act;
- (g) take measures to ensure that the funding of health services is appropriate and consistent with the concepts of primary, secondary, tertiary and quaternary levels of health care;
- (h) collate utilisation data and implement information management systems to assist in monitoring the quality and standard of health care services, medicines, health goods and health related products procured by the Fund;
- (i) contribute towards the development and maintenance of the National Health Information Repository and Data System to ensure the continuity and portability of health care services;
- (j) develop and maintain a service and performance profile of all contracted, certified and accredited service providers, health establishments and suppliers;
- (k) ensure that health care providers, health establishments and suppliers are paid in accordance with the quality and value of the service provided to users at every level of care;
- (l) monitor the registration, license or accreditation status, as the case may be, of health care providers, health establishments and suppliers;
- (m) account to the Minister for the performance of its functions and the exercise of its powers;
- (n) undertake internal audit and risk management;
- (o) undertake research on, the monitoring of and the evaluation of the impact of the Fund on national health outcomes;

- (p) liaise, and exchange information with, the departments of health, statutory professional councils, other government departments and other organs of state as and when appropriate or necessary in order to achieve the object of this Act contemplated in section 4;
- (q) assist in maintaining the national database on the demographic and epidemiological profile of the population;
- (r) undertake health economic analysis, pharmaco-economic analysis, cost-benefit analysis and actuarial research and analysis to ensure the efficiency and sustainability of the Fund; and
- (s) operate in accordance with the provisions of this Act and other applicable law.

(2) The Fund must perform its functions in the most cost-effective and efficient manner possible and in accordance with the values and principles enshrined in section 195 of the Constitution and the provisions of the Public Finance Management Act.

(3) The Fund must support the Minister in fulfilling his or her obligation to protect, promote, improve and maintain the health of the population as provided in section 3 of the National Health Act.

### **Functions of Fund**

6. (1) The Fund—

- (a) must employ suitably qualified persons as employees of the Fund in accordance with the organisational structure approved by the Board after consultation with the Minister and the Minister of Finance;
- (b) may purchase or otherwise procure goods, equipment, land, buildings, shares, debentures, stock, securities and all other kinds of movable and immovable property;



- (c) may sell, lease, mortgage, encumber, dispose of, exchange, cultivate, develop, build upon, improve or in any other way deal with its property;
- (d) may, in line with section 7 of the Public Finance Management Act, invest any money not immediately required for the conduct of its business and realise, alter or reinvest such money;
- (e) in line with section 66 of the Public Finance Management Act, may borrow money and secure the payment thereof in such manner as it may deem fit;
- (f) may draw, draft, accept, endorse, discount, sign and issue promissory notes, bills and other negotiable or transferable instruments, excluding share certificates;
- (g) may insure itself against any loss, damage, risk or liability which it may suffer or incur;
- (h) may purchase health care service, medicines, health goods and health related products that are of a reasonable quality;
- (i) must identify, develop, promote and facilitate the implementation of best practices in respect of—
  - (i) the purchase of health care services and procurement of medicines, health goods and health related products on behalf of users;
  - (ii) the payment of health care providers, health workers, health institutions and suppliers;
  - (iii) the facilitation of the efficient delivery of quality health care services to users;
  - (iv) the submission of all required data to the Fund;
  - (v) risk management within the Fund;
  - (vi) fraud prevention within the Fund and within the national health system;

- (vii) the design of the health service benefits and goods provided by the Fund in consultation with the Minister;
  - (viii) health care referral networks in respect of users in consultation with the Minister; and
  - (ix) any other administrative matter incidental to achieving the objective of this Act contemplated in section 4;
- (k) must undertake or sponsor research and appropriate programmes or projects designed to facilitate universal access to health care services;
  - (l) must take all reasonable steps to prevent and discourage corruption, unethical or unprofessional conduct, or fraud, or abuse of users or of the Fund;
  - (m) must take all reasonable steps to protect the rights and interests of users of the Fund;
  - (n) may obtain information from, or exchange information with, any other public entity or organ of state;
  - (o) may conclude an agreement with any person for the performance of any particular act or particular work or the rendering of health care services in terms of this Act;
  - (p) must enforce compliance with this Act;
  - (q) must institute or defend legal proceedings and commence, conduct, defend or abandon legal proceedings as it deems fit in order to achieve its objects in accordance with this Act; and
  - (r) may make recommendations to the Minister or advise him or her on any matter concerning the Fund, including the making of regulations in terms of this Act.

(2) Subject to sections 35 and 37, the Fund may enter into contracts for the purchase, procurement and supply of health care services, medicines, health goods and health related products where the health care provider, health establishment or supplier is accredited as provided for in section 38 and must—

- (a) demonstrate to the satisfaction of the Fund its capacity to deliver such services in sufficient quantity and of sufficient quality to meet the needs of users;
- (b) guarantee that there will be no interruption to supply for the duration of the contract;
- (c) conduct its business in a manner that is consistent with the best interests of users;
- (d) not conduct itself or operate in contravention of this Act or any other law; and
- (e) be able to provide the services at the lowest possible price without compromising the quality of its services, the interests of users or violating the provisions of this Act or any other law.

## ***Part 2***

### ***Right to health care***

#### **Eligibility as beneficiaries of Fund**

7. (1) The Fund must, in consultation with the Minister, purchase comprehensive health service benefits on behalf of—

- (a) South African citizens as defined in the South African Citizenship Act, 1995 (Act No. 88 of 1995);
- (b) persons who are permanently resident in the Republic as defined in the Immigration Act and documented in the population register by the Department of Home Affairs;



- (c) the dependants of persons referred to in paragraphs (a) and (b);
- (d) children over the age of 12 and below the age of 18 who has not been registered as a dependant of another user; and
- (e) all inmates as provided for in section 12 of the Correctional Services Act.

(2) Refugees, and asylum seekers who have not been granted refugee status as defined in the Refugees Act, have the right to—

- (a) emergency health care services;
- (b) services for notifiable conditions of public health concern; and
- (c) paediatric and maternal services at primary health care level.

(3) A person seeking health service benefits from an accredited and certified service provider or health institution must be registered as a user of the Fund as provided for in section 8 and must present proof of such registration to the service provider or institution in order to secure the health service benefits to which he or she is entitled.

(4) A temporary resident has the right to emergency medical treatment and any other health service in terms of the provisions of his or her mandatory travel insurance contract.

### **Registration of users**

8. (1) A person who is eligible to become a beneficiary of the Fund as contemplated in section 7, must register him or herself and his or her dependants as users with the Fund at an accredited public or private health care establishment or facility.

(2) A person between 12 and 18 years of age may apply for registration as a beneficiary provided that he or she is not registered as a dependant of another user.

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(3) Persons applying for registration must produce—

- (a) an official identity document, which may include a smart card, issued by the Department of Home Affairs in terms of the provisions of the Identification Act, 1997 (Act No. 68 of 1997);
- (b) in the case of children not issued with an identity document, a birth certificate issued by the Department of Home Affairs in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992); or
- (c) a valid visa or permit issued by the Department of Home Affairs in terms of the provisions of the Refugee Act or the Immigration Act, as the case may be.

(4) A health establishment accredited by the Fund must on behalf of the Fund—

- (a) issue a user with a registration number that is also applicable to each of his or her dependents together with physical evidence of his or her registration with the Fund and that of his or her dependents, if any; and
- (b) maintain a register of all beneficiaries and their dependents.

(5) A user or his or her dependent must present proof of registration when seeking health care services purchased for his or her benefit by the Fund.

(6) In the case of child-headed households, a supervising adult may register other children of the house as users and must, where available, produce necessary documentation.

### **Rights of users**

9. Without derogating from any other right or entitlement incurred under this Act or under any other law, and subject to affordability and within the means of the Republic of South Africa, a user is entitled—

- (a) to receive quality health service benefits free of charge from certified and accredited health care providers and health establishments upon presentation of proof of registration with the Fund;
- (b) to information relating to the Fund and health service benefits available to users;
- (c) to access to any information or records relating to his or her health in the custody of the Fund, in line with the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), in order to exercise or protect his or her rights;
- (d) not to be refused access to health service benefits on unreasonable grounds;
- (e) not to be unfairly discriminated against as provided for in the Constitution and the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000);
- (f) to access health service benefits within a reasonable time period;
- (g) to be treated with a professional standard of care;
- (h) to make reasonable decisions and choices about his or her health and the care he or she is reasonably entitled to;
- (i) to complain to the Fund about poor access to or quality of health service benefits or fraud or other abuses by service providers, health establishments or suppliers;
- (j) to request written reasons for all decisions of the Fund;
- (k) to appeal against decisions of the Fund through the appeal process provided in section 41;
- (l) to institute proceedings for the judicial review of any decision of the Appeal Tribunal of the Fund;

- (m) to the protection of his or her rights to privacy and confidentiality in that he or she must grant written permission for the disclosure of personal information in the possession of or accessible to the Fund, unless the information—
  - (i) is shared amongst health care providers for the lawful purpose of serving the interests of users;
  - (ii) is required by accredited health care providers or suppliers or researchers for the lawful purpose of improving health care practices and policy; or
  - (iii) is utilised by the Fund for any other lawful purpose related to the efficient and effective functioning of the Fund;
- (n) to scrutinise and have access to information on the funding of health service benefits; and
- (o) to purchase complementary health service benefits that are not covered by the Fund through a voluntary medical insurance scheme registered in terms of the Medical Schemes Act, any other private health insurance scheme or out of pocket payments, as the case may be.

#### **Reimbursement for services rendered**

10. (1) The Fund must reimburse health care providers for the health service benefits rendered to the eligible users.

(2) Subject to subsection (3)—

- (a) a user may, at any time access health service benefits at any certified and accredited health establishment;
- (b) should a certified and accredited health establishment not be equipped to provide the required treatment or care, for any reason whatsoever, the health establishment in question must transfer the user concerned at no cost to an



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appropriate establishment which is capable of providing the required treatment or care in such manner and on such terms and conditions as may be determined by the Minister after consultation with the Benefits Advisory Committee; and

- (c) a user must adhere to the referral pathways determined by a health establishment and is not entitled to health service benefits purchased by the Fund if he or she fails to adhere to the referral pathway in question.

(3) Treatment will not be funded if a health care professional is able to reasonably demonstrate that—

- (a) no medical necessity exists for the service; or
- (b) no cost-effective intervention exists for the service.

(4) If the Fund refuses to provide health care treatment to a user as provided in subsection (3), the Fund must—

- (a) provide such user with adequate notice of the decision;
- (b) a reasonable opportunity to make representations in respect of such a decision;
- (c) consider the representations made in respect of paragraph (b) above; and
- (d) provide adequate reasons for the decision to refuse the health care treatment to the user.

(5) A user who is dissatisfied with the reasons for the decision contemplated in subsection (4)(d), may lodge an appeal in terms of section 40.

(6) A user may purchase health care services not reimbursed by the Fund through any other private health insurance scheme or may make out of pocket payments.

**Health service benefits coverage**

11. (1) Subject to the provisions of this Act, comprehensive health service benefits must be purchased by the Fund, for the benefit of users who are registered with the Fund.

(2) (a) All users are required to be registered with a provider of primary health care services of his or her choice, who will be the first point of call for health services when needed.

(b) A user will not be allowed to seek the services of specialists and hospitals without first obtaining a referral from his or her health care provider, except in cases of emergency.

(3) The Benefits Advisory Committee, in consultation with the Minister and the Board, must determine the health service benefits contemplated in subsection (1).

(4) The Benefits Advisory Committee must take account of the potential funds available in making recommendations on the health service benefits to be provided by the Fund.

(5) The Committee must make recommendations on the health service benefits to be reimbursed, how these services would be accessed as well as treatment guidelines and protocols for each condition to be reimbursed.

**Cost coverage**

12. (1) A person who is registered as a beneficiary in terms of this Act must receive such health service benefits purchased on his or her behalf by the Fund from certified and accredited service providers at no cost.



(2) A person—

- (a) who is not entitled to health service benefits purchased by the Fund in terms of the provisions of this Act;
- (b) who fails to comply with referral pathways determined by health care providers or health establishments as referred to in sections 11(1) and 11(2); or
- (c) who seeks services that are not deemed medically necessary by the Benefits Advisory Committee,

must pay for the services rendered directly, or through a voluntary medical insurance scheme or through any other private insurance scheme.

(3) Subject to the provisions of this section, users registered with the Fund receive health service benefits at no cost.

### ***Part 3*** ***Board of Fund***

#### **Establishment**

**13.** An independent Board that is accountable to Parliament is hereby established to govern the Fund in accordance with the provisions of the Public Finance Management Act.

#### **Constitution and composition**

**14.** (1) The Board consists of not more than 10 persons, who are not employees of the Fund, recommended by the Minister and appointed by Cabinet.

(2) Before the members contemplated in subsection (1) are appointed, the Minister must issue a call for the public nomination of candidates to serve on the Board in the *Government Gazette*.

(3) An *Ad Hoc* Committee appointed by Cabinet must—

- (a) conduct public interviews of shortlisted candidates; and
- (b) forward their recommendations to the Minister for approval.

(4) The Minister must, within 30 days from the date of confirmation of the appointment of a Board member by Cabinet, notify Parliament of the final appointment and give notice of the appointment in the *Government Gazette*.

(5) A Board member is appointed for a term not exceeding five years, which is renewable once, and must—

- (a) be a fit and proper person;
- (b) have appropriate technical expertise, skills and knowledge or experience, including health care financing, health economics, public health planning, monitoring and evaluation, law, labour, actuarial sciences, information technology and communication;
- (c) be able to perform effectively and in the interests of the general public;
- (d) not be a person who is employed by the State; and
- (e) not have any personal or professional interest in the Fund or the health sector that would interfere with the performance in good faith of his or her duties as a Board member.

(6) The Chief Executive Officer and the Chief Financial Officer are *ex officio* members of the Board but may not vote at its meetings.

(7) A Board member may resign by written notice to the Minister.

(8) The Minister may remove a Board member if that person—

- (a) is or becomes disqualified in terms of the law;
- (b) fails to perform the functions of office in good faith, in the public interest and in accordance with applicable ethical and legal prescripts; or

(c) becomes unable to continue to perform the functions of office for any other reason.

(9) (a) Subject to the provisions of paragraph (b), the Minister may dissolve the entire Board if the Minister, on good cause, loses confidence in the ability of the Board to perform its functions and powers effectively and efficiently.

(b) The Minister may dissolve the Board as provided for in paragraph (a) only after having consulted with the Cabinet, and only after—

- (i) giving the Board a reasonable opportunity to make representations; and
- (ii) affording the Board, a hearing on any representations received.

(c) If the Minister dissolves the Board in terms of this subsection, the Minister—

- (i) may appoint acting Board members for a maximum period of three months to do anything required by this Act, subject to any conditions the Minister may require; and
- (ii) must, as soon as is feasible, but not later than three months after the dissolution of the Board, replace the Board members in the same manner that they were appointed in terms of this section.

### **Chairperson and Deputy Chairperson**

**15.** (1) The Board must appoint a Chairperson and Deputy Chairperson from amongst the members of the Board contemplated in section 14(1).

(2) Whenever the Chairperson or Deputy Chairperson of the Board is absent or unable to fulfil his or her functions as Chairperson or Deputy Chairperson, the members of the Board must designate any other member of the Board to act as Chairperson or Deputy Chairperson as the case may be, during such absence or incapacity.

**Functions of Board**

16. (1) The Board must fulfil the functions of an accounting authority as required by the Public Finance Management Act and is accountable to Parliament.

(2) The Board advises the Minister on any matter concerning—

- (a) the management and administration of the Fund, including operational, financial and administrative policies and practices;
- (b) the improvement of efficiency and performance of the Fund in terms of universal purchasing and provision of health care services;
- (c) terms and conditions of employment of Fund employees;
- (d) collective bargaining;
- (e) the budget of the Fund; and
- (f) the implementation of this Act and other relevant legislation.

(3) For the purposes of subsection (1), the Board—

- (a) may examine and comment on any policies, and investigate, evaluate and advise on any practices and decisions of the Fund or the Chief Executive Officer under this Act;
- (b) is entitled to all relevant information concerning the administration of the Fund;
- (c) may require—
  - (i) the Chief Executive Officer to submit a report concerning a matter on which the Board must give advice; or
  - (ii) any Fund employee to appear before it and give explanations concerning such a matter; and
- (d) must inform the Minister of any advice it gives to the Chief Executive Officer.



**Committees**

17. (1) The Board may establish committees and, subject to such conditions as it may impose, delegate or assign any of its functions or powers to a committee so established.

(2) Each committee established in terms of subsection (1) must have at least one member of the Board contemplated in section 14(1) as a member of that committee.

**Conduct and disclosure of interests**

18. (1) A member of the Board may not engage in any paid employment that will conflict with the proper performance of his or her functions.

(2) A member of the Board may not—

- (a) be a government employee or an employee of the Fund;
- (b) attend, participate in, vote or influence the proceedings during a meeting of the Board or a committee of thereof if, in relation to the matter before the Board or committee, that member has an interest, including a financial interest, that precludes him or her from acting in a fair, unbiased and proper manner; or
- (c) make private use of, or profit from, any confidential information obtained as a result of performing his or her functions as a member of the Board.

(3) For purposes of subsection 2(a), a financial interest means a direct material interest of a monetary nature, or to which a monetary value may be attributed, but does not include an indirect interest held in any fund or investment if the person who holds the interest has no control over the investment decisions of that fund or investment.



**Procedures**

19. The Board may determine its own procedures in consultation with the Minister.

**Remuneration and reimbursement**

20. The Fund may remunerate a member of the Board and compensate him or her for expenses as determined by the Minister in consultation with the Minister of Finance and in line with the provisions of the Public Finance Management Act.

**Part 4**  
**Chief Executive Officer**

**Appointment**

21. (1) A Chief Executive Officer shall be appointed on the basis of his or her experience and technical competence as the administrative head of the Fund in accordance with a transparent and competitive process.

(2) The Board must—

- (a) conduct interviews of shortlisted candidates; and
- (b) forward their recommendations to the Minister for approval.

(3) The Minister must within 30 days from the date of appointment of the Chief Executive Officer, notify Parliament of the final appointment and give notice of the appointment in the *Government Gazette*.

(4) A person appointed as the Chief Executive Officer holds office—

- (a) for an agreed term not exceeding five years, which is renewable only once; and
- (b) subject to the rules and determinations of the Board in consultation with the Minister.

(5) The Board may recommend the removal of the Chief Executive Officer to the Minister if that person—

- (a) is or becomes disqualified in terms of the law;
- (b) fails to perform the functions of his or her office in good faith, in the public interest and in accordance with applicable ethical and legal prescripts; or
- (c) becomes unable to continue to perform the functions of his or her office for any other reason.

#### **Responsibilities of Chief Executive Officer**

22. (1) The Chief Executive Officer, as the administrative head of the Fund—

- (a) is directly accountable to the Board;
- (b) is responsible for the duties in section 5 specifically designated to the Chief Executive Officer as administrative head of the Fund;
- (c) takes all decisions contemplated in section 6 as administrative head of the Fund;
- (d) performs any function or exercises any power in terms of this Act and other applicable legislation; and
- (e) must report to the Board on a quarterly basis and to Parliament on an annual basis.

(2) Subject to the direction of the Board, the responsibilities of the Chief Executive Officer as the administrative head of the Fund, include—

- (a) the formation and development of an efficient Fund administration;
- (b) the organisation and control of the staff of the Fund;
- (c) the effective management of staff;

- (d) the effective deployment and utilisation of staff to achieve maximum operational results; and
- (e) the establishment of an Investigating Unit within the national office of the Fund for the purposes of—
  - (i) investigating complaints of fraud, corruption or any other criminal activity, unethical business practices and abuse relating to any matter affecting the Fund or users of the Fund; and
  - (ii) liaising with the District Health Management Office as provided in section 35 concerning any matter contemplated in subparagraph (i).

(3) Subject to the direction of the Board, the Chief Executive Officer is responsible for establishing the following units to ensure the efficient and effective functioning of the Fund:

- (a) Planning;
- (b) Benefits Design
- (c) Price Determination;
- (d) Accreditation;
- (e) Purchasing and Contracting;
- (f) Service Provider Payment;
- (g) Procurement;
- (i) Performance Monitoring; and
- (j) Risk and Fraud Prevention Investigation.

(4) Subject to the direction of the Board, the Chief Executive Officer as the administrative head of the Fund, is responsible for—

- (a) all income and expenditure of the Fund;

- (b) all revenue received from Treasury or obtained from any other sources, as the case may be;
- (c) all assets and liabilities of the Fund; and
- (d) the proper and diligent implementation of financial matters of the Fund as provided in the Public Finance Management Act.

(5) The Chief Executive Officer must submit to the Board an annual report of the activities of the Fund during a financial year as provided in section 48, which must include—

- (a) details of the financial performance of the Fund, as audited by the Auditor General, including evidence of the proper and diligent implementation of the Public Finance Management Act; and
- (b) details of the performance of the Fund in relation to ensuring access to quality health care services in line with the health care needs of the population.

### **Relationship of Board with Minister, Director-General and Office of Health**

#### **Standards Compliance**

23. The Board must meet with the Minister, Director-General of Health and the Chief Executive Officer of Health Standards Compliance on at least a quarterly basis to exchange information necessary for the Board to perform its functions.

#### **Staff at executive management level**

24. The Chief Executive Officer may not appoint or dismiss members of staff at executive management level without the prior written approval of the Board.



**Part 5**  
**Ministerial Committees**

**Benefits Advisory Committee**

**25** (1) The Minister, after consultation with the National Health Council, may establish a committee to be known as the Benefit Advisory Committee.

(2) The members of the Benefit Advisory Committee must be appointed by the Minister and consists of following persons:

- (a) All heads of medical schools in the country,
- (b) one member seconded by the World Health Organisation,
- (c) nine members, one each nominated by the provincial departments of health,
- (d) one member nominated by the Council on Medical Schemes and
- (e) two members nominated by the hospital association or similar body representing the private hospitals.

(3) A person appointed in terms of subsection (2)—

- (a) serves for a term of not more than five years and may be reappointed for one more term only; and
- (b) ceases to be a member of the Committee when he or she is no longer a member of the institution that nominated him or her or when he or she resigns.

(4) A vacancy in the Benefit Advisory Committee must be filled by the appointment of a person for the unexpired portion of the term of office of the member in whose place the person is appointed, and in the same manner in which the member was appointed in terms of subsection (2).

(5) The Benefits Advisory Committee must determine and review—



- (a) the health service benefits and types of services to be reimbursed at each level of care at primary health care facilities and at district, regional and tertiary hospitals;
- (b) detailed and cost-effective treatment guidelines that take into account the emergence of new technologies; and
- (c) in consultation with the Minister and the Board, the health service benefits.

(6) The Minister must by notice in the *Government Gazette* publish the guidelines contemplated in subsection (5)(b) and may prescribe additional functions to the Benefit Advisory Committee.

#### **Health Benefits Pricing Committee**

26. (1) The Minister must establish a health benefit pricing committee consisting of not less than 16 and not more than 24 members.

- (2) The Health Benefit Committee Pricing Committee consists of—
- (a) the Director-General of Health;
  - (b) one person at the level of Deputy Director-General from National Treasury;
  - (c) not more than 11 members appointed based on their special knowledge and experience in—
    - (i) Clinical and service delivery;
    - (ii) Operational health management establishment and service delivery;
    - (iii) Actuarial and health benefit design or pricing strategy;
    - (iv) health economics; and
    - (v) labour relations;

(3) The Minister must appoint a chair and deputy chair from amongst the members of the Committee.

(4) The Committee must recommend the prices of health service benefits to the Fund.

### **Stakeholder Advisory Committee**

27. (1) The Minister may appoint a Stakeholder Advisory Committee comprised of the following:

(a) One representative each from—

- (i) the Health Professions Council of South Africa established in terms of the Health Professions Act, 1994 (Act No. 56 of 1974);
- (ii) the South African Pharmacy Council established in terms of the Pharmacy Act, 1974 (Act No. 53 of 1974);
- (iii) the South African Nursing Council established in terms of the Nursing Act, 2005 (Act No. 33 of 2005);
- (iv) the Allied Health Professions Council established in terms of the Allied Health Professions Act, 1982 (Act No. 63 of 1982);
- (v) the Traditional Health Practitioners Council established in terms of the Traditional Health Practitioners Act, 2004 (Act No. 35 of 2004);
- (vi) the Council for Medical Schemes established in terms of the Medical Schemes Act;
- (vii) the South African Health Products Regulatory Authority established in terms of the Medicines Act;
- (viii) the South African Dental Technicians Council established in terms of the Dental Technicians Act, 1979 (Act No. 19 of 1979); and
- (ix) the South African Medical Research Council established in terms of the South African Medical Research Council Act, 1991 (Act No. 58 of 1991).

- (b) one representative from organised labour;
- (c) one representative from organised business;
- (d) two representatives from tertiary education institutions involved in the training of health care professionals;
- (e) two representatives from health-related non-governmental organisations;
- (f) two persons representing civil society or consumers in an official capacity; and
- (g) one representative from any other organisation deemed advisable by the Minister.

(2) The Committee as established and constituted in subsection (1) must provide—

- (a) advice to the Board and the Minister on the functioning of the Fund in order to promote achievement of its objects as provided for in this Act;
- (b) comments and advice from a community perspective on the health service benefits offered by the Fund, and the experience of users in relation to the Fund;
- (c) comments and advice from a public and private health care provider perspective on the health service benefits offered by the Fund and the experience of health care providers, health establishments and suppliers in relation to the Fund; and
- (d) any other comments and advice that would contribute to the equitable and effective functioning of the Fund.

#### **Technical committees**

**28.** (1) The Minister may, after consultation with the National Health Council, establish such number of technical committees as may be necessary to

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achieve the objectives of this Act and must publish details of the functions, procedure and remuneration as provided for in section 30.

(2) A committee established under subsection (1) must perform its functions impartially and without fear, favour or prejudice.

(3) A person appointed as a member of such a committee must—

- (a) be a fit and proper person;
- (b) have appropriate expertise or experience; and
- (c) have the ability to perform effectively as a member of that committee.

(4) A member of such a committee must not—

- (a) act in any way that is inconsistent with subsection (2) or expose himself or herself to any situation in which the risk of a conflict between his or her official responsibilities and private interests may arise; or
- (b) use his or her position, or any information entrusted to him or her, for self-enrichment or to improperly benefit any other person.

**Disclosure of interests**

29. A member of a committee established by the Minister in terms of this Act who has a personal or financial interest in any matter on which such committee gives advice must disclose that interest when that matter is discussed.

**Procedure and remuneration**

30. When establishing a committee under Part 5 of this Act, the Minister may determine by notice in the *Government Gazette*—

- (a) its composition, functions and working procedures;
- (b) in consultation with the Minister of Finance, the terms, conditions, remuneration and allowances applicable to its members; and
- (c) any incidental matter relating to the committee.



**Vacation of office**

**31.** A member of a committee established in terms of this Act ceases to be a member if—

- (a) that person resigns from that committee;
- (b) the Minister terminates the appointment; or
- (c) the term for which the member was appointed has expired and the membership has not been renewed.

**Part 6*****General provisions applicable to operation of fund*****Role of Minister**

**32.** Without derogating from any responsibilities and powers conferred on him or her by the Constitution, the National Health Act, this Act or any other applicable law, the Minister is responsible for the—

- (a) governance and stewardship of the national health system; and
- (b) governance and stewardship of the Fund.

**Role of Department**

**33.** (1) The functions of the Department are provided in the National Health Act and the Constitution, and include—

- (a) ensuring the implementation of national health policy;
- (b) issuing guidelines for the implementation of national health policy;
- (c) issuing and promoting guidelines for norms and standards related to health matters;
- (d) identifying national health goals and priorities and monitoring and evaluating the progress of its implementation;
- (e) promoting health and healthy lifestyles;



- (f) facilitating and promoting the provision of health services for the management, prevention and control of communicable and non-communicable diseases;
- (g) co-ordinating health services rendered by the national department with the health services rendered by provinces and municipalities as well as to provide such additional health services as may be necessary to establish a comprehensive national health system; and
- (h) integrating the health plans of the national department and provincial departments annually and submitting the integrated health plans to the National Health Council.

(2) Without derogating from the Constitution or any other law, the functions of a provincial department responsible for health in the province in question shall be to provide health services which the Fund would purchase in addition to—

- (a) co-ordinating health and medical services during provincial disasters;
- (b) co-ordinating emergency medical services and forensic pathology, forensic clinical medicines and related services, including the provision of medico-legal mortuaries and medico-legal services;
- (c) providing and maintaining equipment, vehicles and health care facilities in the public sector; and
- (d) protecting and promoting environmental health.

(3) Without derogating from the Constitution or any other law, the functions of a municipality in respect of the provision of health services include—

- (a) water quality;
- (b) food control;
- (c) waste management;

- (d) health surveillance;
- (e) control of communicable diseases;
- (f) vector control;
- (g) environmental pollution control;
- (h) disposal of the dead; and
- (i) chemical safety.

### **National Health Information Repository and Data System**

34. (1) The Fund must contribute to the development and maintenance of a National Health Information Repository and Data System contemplated in section 74 of the National Health Act in order to fulfil the requirements for dissemination of information and the keeping of records, which must facilitate—

- (a) the implementation of the objects and the effective management of the Fund; and
- (b) portability and continuity of health care services available to users subject to the provisions of this Act.

(2) Subject to the provisions of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), and the Promotion of Access to Information Act, data must be compiled and stored by an independent data company so as to ensure that data is accurate and equally accessible to the Department and the Fund, or to any other stakeholder legally entitled to such information.

(3) In order to be accredited and reimbursed by the Fund, a health care provider or health establishment must submit such information as may be prescribed to the Fund for recording on the Health Payment Registration System, including—

- (a) national identity number or permit and visa details issued by the Department of Home Affairs, as the case may be;
- (b) procedure codes using the prescribed coding systems;
- (c) details of treatment administered including medicines dispensed and equipment used;
- (d) diagnostic tests ordered;
- (e) length of stay of an inpatient in a hospital facility;
- (f) facility to which a user is referred if relevant; and
- (g) any other information deemed necessary by the Minister in consultation with the Fund for the monitoring and evaluation of national health outcomes.

(4) The information in subsection (3) may be used by the Fund to—

- (a) monitor service and benefit utilisation and expenditure patterns relative to plans and budgets;
- (b) plan and budget for the purchasing of quality personal health care services based on need;
- (c) monitor adherence to standard treatment guidelines;
- (d) monitor the appropriateness and effectiveness of referral networks prescribed by health care providers and health establishments;
- (e) provide an overall assessment of the performance of service providers, health establishments and suppliers; and
- (f) determine the payment mechanisms for personal health care services.

(5) Information concerning a user, including information relating to his or her health status, treatment or stay in a health establishment is confidential and no third party may disclose information contemplated in subsection (4), unless—

- (a) the user consents to the disclosure in writing;

- (b) the information is shared among health care providers for the lawful purpose of serving the interests of users;
- (c) the information is required by accredited health care providers or suppliers or researchers for the lawful purpose of improving health care practices and policy;
- (d) the information is utilised by the Fund for any other lawful purpose related to the efficient and effective functioning of the Fund;
- (e) a court order or any law requires such disclosure; or
- (f) failure to disclose the information represents a serious threat to public health.

(6) Health workers, health care providers and persons in charge of health establishments must comply with the provisions in the National Health Act relating to access to health records and the protection of health records.

### **Purchasing of health care services**

**35.** (1) The Fund must—

- (a) actively and strategically purchase health care services from public and private healthcare providers on behalf of users in accordance with need and the provisions of this Act; and
- (b) perform the role of purchaser in accordance with the principle of separation of purchasing and provision.

(2) At national level the Fund must transfer funds directly to certified, accredited and contracted all hospitals excluding district hospitals based on Diagnostic Related Groups as determined by the Minister in consultation with the National Health Council and the Board from time to time as required.



(3) At provincial level the Fund must transfer funds directly to certified, accredited and contracted provincial, regional, specialised and district hospitals based on a global budget or Diagnostic Related Groups as determined by the Minister in consultation with the National Health Council and the Board from time to time as required.

(4) At the sub-district level funds for primary health care services must be transferred to Contracting Units for Primary Health Care contemplated in section 37.

(5) Emergency Medical Services provided by accredited and contracted public and private providers must be funded on a capped case-based fee with adjustments made for case severity where necessary.

#### **Role of District Health Management Offices**

36. (1) The District Health Management Office established by section 31A of the National Health Act must facilitate, coordinate and manage the provision of non-personal public health care programmes at district level in compliance with national policy guidelines and applicable law.

(2) The District Health Management Office must liaise with and report on a monthly basis to the national office of the Fund concerning—

- (a) difficulties with regards to access to non-personal health care services experienced by users;
- (b) difficulties experienced by the Office relating to service providers;
- (c) health needs of users that are not being met; and
- (d) any other matter required for the efficient functioning of health care services in the relevant district.



(3) The District Health Management Office must co-operate with the Investigating Unit of the Fund established by the Chief Executive Officer in section 22(2)(e) to facilitate the investigation of complaints in the district.

#### **Contracting Unit for Primary Health Care**

37. (1) The Contracting Unit for Primary Health Care is the organisational unit with which the Fund contracts for the provision of primary health care services within a specified geographical sub-district area.

(2) The Contracting Unit is comprised of a district hospital, clinics and, or community health centres and ward-based outreach teams, private primary service providers organised in horizontal networks within a specified geographical sub-district area and must assist the Fund to—

- (a) identify health care service needs in terms of the demographic and epidemiological profile of a particular sub-district;
- (b) identify certified and accredited public and private health care providers at primary care facilities;
- (c) monitor contracts entered into with certified and accredited health care providers, health establishments and suppliers in the relevant district in the prescribed manner and subject to the prescribed conditions;
- (d) monitor the disbursement of funds to health care providers, health establishments and suppliers within the sub-district;
- (f) access information on the disease profile in a particular district that would inform the design of the health service benefits for that district;
- (g) improve access to health care services in a particular sub-district at appropriate levels of care at health care facilities and in the community;

- (h) ensure that the user referral system is functional, including the transportation of users between the different levels of care and between public and private facilities accredited by the Fund if necessary;
- (i) issue certificates of accreditation to health care providers, health establishments and suppliers at sub-district level, including municipal clinics, as provided for in section 38;
- (j) facilitate the integration of public and private health care services within the district; and
- (k) resolve complaints from users in the district in relation to the delivery of health care services.

#### **Accreditation of service providers**

**38.** (1) Public and private service providers accredited by the Fund in terms of this section must deliver health service benefits at the appropriate level of care to users who are entitled to benefits that have been purchased by the Fund on their behalf.

(2) In order to be accredited by the Fund, a service provider must—

- (a) be in possession of and produce proof of certification by the Office of Health Standards Compliance, and where relevant proof of registration by the Health Professions Council, Nursing Council, South African Dental Council or Pharmacy Council, as the case may be;
- (b) meet the needs of users and ensure service provider compliance with specific criteria, including—
  - (i) provision of the minimum required range of personal health care services specified by the Minister in consultation with the Fund and published in the *Government Gazette* from time to time as required;

- (ii) allocation of the appropriate number and mix of health care professionals to deliver the health care services specified by the Minister in consultation with the National Health Council and the Fund, and published in the *Government Gazette* from time to time as required;
- (iii) adherence to treatment protocols and guidelines, including prescribing medicines;
- (iv) adherence to health care referral networks;
- (v) submission of information to the National Health Information Repository and Data System in accordance with section 34(3) to ensure portability and continuity of health care services in the Republic and performance monitoring and evaluation; and
- (iv) adherence to the national pricing regimen for services delivered.

(3) The Fund shall conclude legally binding contracts with—

- (a) public and private health care providers identified by the Office in each district through Contracting Units for Primary Health Care that satisfy the requirements enumerated in subsection (2);
- (b) health care establishments and facilities identified by provincial departments that satisfy the requirements enumerated in subsection (2); and
- (c) health care establishments and facilities identified by the Department that satisfy the requirements enumerated in subsection (2).

(4) The contract between the Fund and a public or private service provider accredited in terms of this section must contain a clear statement of performance expectation in respect of the management of patients, the volume and quality of services delivered, and access to services.



(5) The performance of service providers accredited in terms of this section must be monitored and evaluated as determined by this Act and appropriate sanctions must be applied where there is deviation from contractual obligations.

(6) The Fund must renew the accreditation of service providers every five years on the basis of compliance with the accreditation criteria as reflected in subsection (2).

(7) The Fund may withdraw or refuse to renew the accreditation of a service provider if it is proven that the service provider—

- (a) has failed or is unable to deliver the required comprehensive health service benefits to users who are entitled to such benefits;
- (b) is no longer in possession of, or is unable to produce, proof of certification by the Office of Health Standards Compliance established by section 77 of the National Health Act and, where relevant, proof of registration by the Health Professions Council, Nursing Council, South African Dental Council or Pharmacy Council, as the case may be;
- (c) has failed or is unable to ensure the allocation of the appropriate number and mix of health care professionals to deliver the health care services specified in the *Government Gazette*;
- (d) has failed or is unable to adhere to treatment protocols and guidelines, including prescribing medicines;
- (e) has failed or is unable to comply with health care referral networks;
- (f) for any reason whatsoever, does not submit the required information to the National Health Information System;
- (g) fails to adhere to the national pricing regimen for services delivered;

- (h) intentionally or negligently breaches any substantive term of a legally binding contract concluded with the Fund;
- (i) delivers services of a quality not acceptable to the Fund as determined by the Office of Health Standards Compliance established in section 77 of the National Health Act; or
- (j) infringes any code of ethics or law applicable in the Republic.

(8) If the Fund withdraws the accreditation of a service provider or refuses to renew the accreditation of a service provider, the Fund must—

- (a) provide the service provider with adequate notice of the decision;
- (b) provide the service provider with a reasonable opportunity to make representations in respect of such a decision;
- (c) consider the representations made in respect of paragraph (b) above; and
- (d) provide adequate reasons for the decision to withdraw or refuse the renewal of accreditation to the service provider, as the case may be.

(9) A service provider who is dissatisfied with the reasons for the decision provided in section 38(8)(d), may lodge an appeal in terms of section 41 of the Act.

#### **Payment of service providers**

39. (1) The Fund, in consultation with the Minister, must determine the nature of service provider payment mechanisms and further adopt mechanisms to establish that service providers, health establishments and suppliers are properly accredited in terms of section 38 before they receive payment.

(2) In the case of specialist and hospital services, payments must be all-inclusive and based on the performance of the service provider, health establishment or supplier, as the case may be.



(3) Accredited primary service providers at health establishments, must be funded on a risk adjusted capitation basis in relation to—

- (a) the size of the population served; and
- (b) the range of services for which they are responsible as determined by the Minister.

(4) Certified and accredited primary service providers must be contracted and remunerated by the Contracting Unit for Primary Health Care.

### ***Part 7*** ***Complaints and appeals***

#### **Complaints**

40. (1) An affected user, service provider, health establishment or supplier may lodge a complaint with the Fund in terms of the procedures determined by the Fund in consultation with the Minister, and the Fund must deal with such complaints in a timeous manner and in terms of the law.

(2) The Investigating Unit established by the Chief Executive Officer in terms of section 22(2)(e) must launch an investigation to establish the facts of the incident reported and must make recommendations to the Chief Executive Officer as to the manner in which the matter may be resolved within 30 days of receipt of the complaint.

(3) The complainant must be informed in writing of the outcome of the investigation launched in terms of subsection (2), and any decision taken by the Fund.

(4) If the Fund has made a decision in terms of subsection (3), the Fund must—

- (a) provide the complainant with a reasonable opportunity to make representations in respect of such decision;

- (b) consider the representations made in respect of paragraph (a) above; and
- (c) provide adequate reasons for the decision contemplated in subsection (3).

### **Lodging of Appeals**

41. A user, health care provider, health establishment or supplier aggrieved by a decision of the Fund contemplated in section 40 may, within a period of 60 days after receipt of written notification of the decision, appeal against such decision to the Appeal Tribunal appointed by the Minister in terms of section 42.

### **Appeal Tribunal**

42. (1) An Appeal Tribunal is hereby established which consists of the following persons appointed by the Minister:

- (a) one member appointed on account of his or her knowledge of the law, who is the chairperson of the Tribunal;
- (b) two members appointed on account of their medical knowledge; and
- (c) two members appointed on account of their financial knowledge.

(2) A member of the Appeal Tribunal appointed by the Minister in terms of subsection (1) serves as a member for a period of three years, which term may be renewed only once.

(3) A member ceases to be a member if—

- (a) he or she resigns from the Appeal Tribunal;
- (b) the Minister terminates his or her membership on good cause; or
- (c) the term for which the member was appointed has expired.

### **Powers of Appeal Tribunal**

43. (1) The Appeal Tribunal has the same power of a High Court to—

- (a) summon witnesses;
- (b) administer an oath or affirmation;

- (c) examine witnesses; and
- (d) call for the discovery of documents and objects.

(2) The Appeal Tribunal may after hearing the appeal—

- (a) confirm, set aside or vary the decision of the Fund; or
- (b) order that the decision of the Fund be effected.

### **Secretariat**

44. The Chief Executive Officer must designate a staff member of the Fund to act as secretary of the Appeal Tribunal and the Fund must keep the minutes and all records of a decision of the Appeal Tribunal Board for a period of at least three years after the decision has been recorded.

### **Procedure and remuneration**

45. (1) The Minister, in consultation with the Minister of Finance, must determine the terms, conditions, remuneration and allowances applicable to the members of the Appeal Tribunal.

(2) A member of the Board must recuse himself or herself if it transpires that he or she has any direct or indirect personal interest in the outcome of an appeal and must be replaced for the duration of the hearing by another person with similar knowledge appointed by the Minister.

(3) (a) The Appeal Tribunal must determine the outcome of the appeal within 180 days after the lodgement of the appeal and inform the appellant of the decision in writing.

(b) The Secretariat contemplated in section 44 must keep record of all proceedings and outcomes.

(4) Nothing in this section precludes an aggrieved party from seeking suitable redress in a court of law that has jurisdiction to hear such a matter.

**Part 8**  
**Financial matters**

**Sources of income**

**46.** (1) The Minister must, in consultation with the Minister of Finance, determine the budget and allocation of revenue to the Fund on an annual basis.

(2) The amount of the revenue to be allocated to the Fund must be informed by—

- (a) the size of the population served;
- (b) the average cost of providing health service benefits to registered users and be calculated in accordance with—
  - (i) the estimates of income and expenditure in accordance with section 53 of the Public Finance Management Act; or
  - (ii) such other manner as may be agreed upon by the Minister and the Board and approved by Cabinet.

(3) Sources of income of the Fund include—

- (a) money appropriated by Parliament;
- (b) interest or return on an investment made by the Fund;
- (c) any bequest or donation received by the Fund;
- (d) movable or immovable property purchased or otherwise acquired by the Fund; and
- (e) any other money to which the Fund may become legally entitled to.

**Auditing**

**47.** The Auditor-General must audit the accounts and financial records of the Fund annually as provided in the Public Audit Act, 2004 (Act No. 25 of 2004).



**Annual report**

48. (1) The Board, as the accounting authority of the Fund, must submit to the Minister a report on the activities of the Fund during a financial year as provided for in the Public Finance Management Act.

(2) Subject to the provisions of the Public Finance Management Act, the report must be submitted within six months, or within a longer period fixed by the Minister, after the end of the relevant financial year, and must include—

- (a) the audited financial statements of the Fund;
- (b) a report of activities undertaken in terms of its functions set out in this Act;
- (c) a statement of the progress achieved during the preceding financial year towards realisation of the purposes of this Act; and
- (d) any other information that the Minister, by notice in the *Gazette*, determines.

(3) In addition to the matters which must be included in the annual report and financial statements as provided in section 55 of the Public Finance Management Act, the annual report must be prepared in accordance with generally accepted accounting practice and set out and contain a statement showing—

- (a) the total number of users who received health service benefits in terms of this Act;
- (b) the total monetary value of health service benefits provided in respect of each category of benefits and level of care as determined by the Minister;
- (c) all loans, overdrafts, advances and financial commitments of the Fund;
- (d) the particulars of all donations and bequests received by the Fund;
- (e) an actuarial valuation report;
- (f) particulars of the use of all immovable and movable property acquired by the Fund;

- (g) any amount written off by the Fund; and
- (h) any other matter determined by the Minister.

(4) The Minister must without delay—

- (a) table a copy of the report in the National Assembly; and
- (b) submit a copy of the report to the National Council of Provinces.

### ***Part 9***

#### ***Miscellaneous***

#### **Assignment of duties and delegation of powers**

**49.** Subject to the Public Finance Management Act—

- (a) the Minister may assign any duty and delegate any power imposed or conferred upon him or her by this Act, except the power to make regulations, to any person in the employ of the Fund; and
- (b) the Chief Executive Officer of the Fund may assign any duty and delegate any power imposed or conferred upon him or her by this Act to any employee of the Fund.

#### **Protection of confidential information**

**50.** Nothing in this Act affects the provisions of any other law prohibiting or regulating disclosure of personal or other sensitive information accessible to or in possession of the Fund.

#### **Offences**

**51.** (1) Any person who—

- (a) knowingly submits false information to the Fund or its agents;
- (b) makes a false representation with the intention of obtaining benefits from the Fund to which he or she is not entitled;

- (c) utilises money paid from the Fund for a purpose other than that in respect of which it is paid;
- (d) obtains money or other gratification from the Fund under false pretences; or
- (e) sells or otherwise discloses information owned by the Fund to a third party without the prior knowledge and written consent of the Fund,

is guilty of an offence and liable on conviction to a fine not exceeding R100 000.00 or imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(2) Any person who fails to furnish the Fund or an agent of the Fund with information provided for by this Act or any directive under this Act, within the prescribed or specified period or any extension thereof, is, irrespective of any criminal proceedings instituted under this Act, liable to such penalty as may be prescribed for every day on which the failure continues, unless the Fund, on good cause shown, waives the penalty or any part thereof.

(3) Any penalty imposed under subsection (1) is a debt due to the Fund.

## **Regulations**

**52.** (1) The Minister may, after consultation with the National Health Council established in terms of section 22 of the National Health Act and the Fund, make regulations regarding—

- (a) legal relationships between the Fund and various categories of health establishments, service providers or suppliers as provided for in the National Health Act;

- (b) payment mechanisms to be employed by the Fund in order to purchase personal health care services from certified, accredited and contracted service providers, health establishments or suppliers;
- (c) the budget of the Fund, including the processes to be followed in drawing up the budget, in compliance with the provisions of the Public Finance Management Act;
- (d) information to be provided to the Fund for the development and maintenance of the National Health Information Repository and Data System by users, health establishments, health care providers or suppliers and the format in which such information must be provided;
- (e) clinical information and diagnostic codes to be submitted and used by service providers, health establishments and suppliers when claiming payment from the Fund or furnishing reports to the Fund;
- (f) participation of the Fund in the National Health Information Repository and Data System, including the Health Payment Registration System contemplated in section 34(3);
- (g) registration of users of the Fund in terms of section 8;
- (h) accreditation of service providers, health establishments or suppliers serving users;
- (i) functions and powers of the District Health Management;
- (j) functions and powers of the Contracting Units for Primary Health Care;
- (k) relationship between the Fund and the Office of Health Standards Compliance established in section 77 of the National Health Act as an autonomous public entity in order to facilitate compliance with health standards;



- (l) relationship between the Fund and the Department of Correctional Services in order to clarify the mechanisms for purchasing, within available resources, of quality personal health care services for inmates as provided in the Correctional Services Act;
- (m) relationship between public and private health establishments, and the optional contracting in of private health care providers;
- (n) relationship between the Fund and medical insurance schemes registered in terms of the Medical Schemes Act and other private health insurance schemes;
- (o) investigations conducted by the Fund or complaints against the Fund to give effect to the provisions contemplated in Part 7;
- (p) appeals against decisions of the Fund to give effect to the provisions contemplated in Part 7;
- (q) research on health funding and donations to health research, including clinical teaching and research at institutions of higher education in consultation with the Minister of Higher Education and Training;
- (r) the manner in which service providers, health establishments and suppliers must report to the Fund in respect of health services purchased by the Fund and the content of such reports;
- (s) monitoring and evaluation of the performance of the Fund;
- (t) all fees payable by or to the Fund;
- (u) subject to the Public Finance Management Act, the nature and level of reserves to be kept within the Fund;
- (v) subject to the Public Finance Management Act, the manner in which money within the Fund must be invested;

- (w) all practices and procedures to be followed by service providers or suppliers in relation to the Fund;
- (x) defining the scope, benefits and nature of health service benefits and programmes and the manner in, and extent to, which they must be funded;
- (y) the proceedings of the meetings of Committees appointed in terms of this Act and a code of conduct for members of those Committees;
- (z) the proceedings and other related matters of the Appeal Tribunal established in terms of section 42;
- (zA) payment of health care providers;
- (zB) any other matter that is necessary to ensure the sustainability of the Fund, to ensure that the objects of the Fund are met or to protect the interests of users and the public at large;
- (zC) any matter which may or must be prescribed; and
- (zD) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

(2) Without limiting the powers of the Minister to issue regulations in terms of subsection (1) of this Act, the Minister may issue regulations to—

- (a) provide for payments to be made to health care providers on condition that there has been compliance with standards of care or the achievement of specified levels of performance;
- (b) determine mechanisms for the payment of individual health care workers and health professionals; and

- (c) provide that the whole or any part of a payment to health care providers is subject to conditions as outlined in a contract and that payments will only be effected by the Fund if the conditions have been met.

(3) The Minister must, not less than two months before any regulation is made under subsection (1), cause a copy of the proposed regulation to be published in the *Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish him or her with their comments thereon or any representations they may wish to make in regard thereto.

(4) The provisions of subsection (3) shall not apply in respect of—

- (a) any regulation made by the Minister which, after the provisions of that subsection have been complied with, has been amended by the Minister in consequence of comments or representations received by him or her in pursuance of a notice issued there under; or
- (b) any regulation which the Minister, after consultation with the Board, deems in the public interest to publish without delay.

### **Repeal and amendment of laws**

53. Subject to section 54, the laws mentioned in the second column of Schedule are hereby repealed or amended to the extent set out in the third column of the Schedule.

### **Transitional arrangement**

54. (1) Despite anything to the contrary in this Act, this Act must be implemented over three phases.

(2) The three phases contemplated in subsection (1) are as follows:

- (a) Phase 1 encompassed a period of five years from 2012 to 2017 and included testing of effective health system strengthening initiatives.

- (b) Phase 2 will be for a period of five years from 2017 to 2022 and will—
- (i) continue with the implementation health system strengthening initiatives, including the alignment of human resources with that which will be required under the Fund;
  - (i) include the development of National Health Insurance legislation and amendments to other legislation;
  - (ii) include the undertaking of Initiatives which are aimed at establishing institutions that will be the foundation for a fully functional Fund; and
  - (iv) will include the interim purchasing of personal healthcare services for vulnerable groups such as children, women, people with mental health disorders, people with disability and the elderly.
- (c) Phase 3 will be for a period of four years from 2022 to 2026 and will include—
- (i) the continuation of Health systems strengthening activities on an ongoing basis;
  - (ii) the mobilisation of additional resources as approved by Cabinet; and
  - (iii) the selective contracting of healthcare services from private providers.

(3) In phase 2 the Minister may establish the following interim committees to advise him or her on the implementation of the National Health Insurance:

- (a) The National Tertiary Health Services Committee which will be responsible for developing the framework governing the tertiary services platform in South Africa.
- (b) The National Governing Body on Training and Development which will, amongst others—



- (i) be responsible for the determination of the health workforce, for recommending policy related to health sciences, student education and training to the Minister of Health, including a human resource for health development plan;
  - (ii) be responsible for the determination of the number and placement of (including, but not limited to) all categories of interns, community service and registrars;
  - (iii) oversee and monitor the implementation of the policy and evaluate its impact; and
  - (iii) coordinate and align strategy, policy and financing of health sciences education.
- (c) The Ministerial Advisory Committee on Health Care Benefits for National Health Insurance which will be a precursor to the Benefits Advisory Committee and which will advise the Minister on a process of priority setting to inform the decision-making processes of the Fund to determine the benefits to be covered.
- (d) The Ministerial Advisory Committee on Health Technology Assessment for National Health Insurance which will be established to advise the Minister on Health Technology Assessment and which will serve as a precursor to the Health Technology Assessment agency that will regularly review the range of health interventions and technology by using the best available evidence on cost-effectiveness, allocative, productive and technical efficiency and Health Technology Assessment.

(4) Objectives that must be achieved in Phase 2 include—

- (a) The migration of Central Hospitals that are funded, governed and managed nationally and established as semi-autonomous entities.
- (b) the structuring of the Contracting Unit for Primary Healthcare Services at district level in a cooperative management arrangement with the district hospital linked to a number of Primary Health Care facilities;
- (c) the establishment of the Fund, including the establishment of governance structures;
- (d) the finalisation and implementation of a Health Patient Registration System referred to in section 8;
- (e) the process for the accreditation of health care providers which will require that health establishments are inspected and certified by the Office of Health Standards Compliance, health professionals are licensed by their respective statutory bodies and health care providers comply with criteria for accreditation;
- (f) the purchasing of health service benefits which will include personal health services such as primary health care services, maternity and child healthcare services including school health services, healthcare services for the aged, people with disabilities and rural communities from contracted public and private providers including, but not limited to, general practitioners, audiologists, oral health practitioners, optometrists, speech therapists and other designated providers at a Primary Health Care level focusing on disease prevention, health promotion, provision of primary health care services and addressing critical backlogs;
- (g) the purchasing of hospital services and other clinical support services which will be funded by Fund, which will be an expansion of the personal health

services purchased, and which will be from higher levels of care from public hospitals (central, tertiary, regional and district hospitals) including emergency medical services and pathology services provided by National Health Laboratory Services; and

- (h) the initiation of legislative reforms in order to enable the introduction of National Health Insurance, including changes to the—
- (i) National Health Act, 2003 (Act No. 61 of 2003);
  - (ii) Mental Health Care Act, 2002 (Act No. 17 of 2002);
  - (iii) Occupational Diseases in Mines and Works Act, 1973 (Act No. 78 of 1973);
  - (iv) Health Professions Act, 1974 (Act No. 56 of 1974);
  - (v) Traditional Health Practitioners Act, 2007 (Act No. 22 of 2007);
  - (vi) Allied Health Professions Act, 1982 (Act No. 63 of 1982);
  - (vii) Dental Technicians Act, 1979 (Act No. 19 of 1979);
  - (viii) Medical Schemes Act, 1998 (Act No. 131 of 1998);
  - (ix) Medicines and Related Substances Act, 1965 (Act No. 101 of 1965);
  - (x) Nursing Act, 2005 (Act No. 33 of 2005); and
  - (xi) various Provincial Health Acts.

(5) Objectives that must be achieved in Phase 3 include the establishment and operationalisation of the NHI Fund as a purchaser of health care services through a system of mandatory prepayment

#### **Short title and commencement**

**55.** (1) This Act is called the National Health Insurance Act, 2018 and takes effect on a date fixed by the President by proclamation in the Government Gazette.

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(2) Subject to section 54, different dates may be fixed in respect of the coming into effect of different provisions of this Act.



## LAWS REPEALED OR AMENDED

(Section 53)

| Short title of law        | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| National Health Act, 2003 | Act No. 61 of 2003 | <p>1. The amendment of section 1 by the substitution for paragraph (c) of the definition of "health agency" of the following paragraph:</p> <p>"(c) who procures health care personnel or health services for the benefit of a user, <u>excluding the National Health Insurance Fund and its functionaries,</u> and includes a temporary employment service as defined in the Basic Conditions of Employment Act, 1997 (Act 75 of 1997), involving health workers or health care providers;"</p> |
|                           |                    | 2. The repeal of section 4.                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|                           |                    | <p>3. The amendment of section 25—</p> <p>(a) by the deletion in subsection (2) of paragraphs (k) and (l);</p> <p>(b) by the substitution in subsection (2) for paragraph (n) of the following paragraph:</p> <p>"(n) <u>assist the District Health Management Office in controlling [control]</u> the quality of all health services and facilities;" and</p> <p>(c) by the substitution in subsection (2) for paragraph (t) of the following paragraph:</p>                                    |

| Short title of law | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                    |                    | "(l) <u>together with the District Health Management Office promote community participation in the planning, provision and evaluation of health services;</u> ".                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                    |                    | 4. The amendment of section 27 by the deletion in subsection (1)(a) of subparagraphs (v), (vi) and (vii).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                    |                    | <p>5. The amendment of section 31—</p> <p>(a) by the substitution in subsection (2)(a) for subparagraph (iv) of the following subparagraph:</p> <p>"(iv) not more than five other persons, appointed by the relevant member of the Executive Council after consultation with the municipal council of the metropolitan <u>[or]</u>, district municipality <u>or</u> <u>District Health Management Office</u>, as the case may be.";</p> <p>(b) by the deletion in subsection (2) of paragraph (c);</p> <p>(c) by the deletion in subsection (3) of paragraph (b);</p> <p>(d) by the substitution in subsection (3) for paragraph (c) of the following paragraph:</p> <p>"(c) advise the relevant members of the Executive Council, through the Provincial Health Councils, and the municipal council of the relevant metropolitan or district municipality <u>[,]</u> <u>and the District Health Management Office</u> on any</p> |

| Short title of law | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                    |                    | <p>matter regarding health or health services in the health district for which the council was established.";</p> <p>(e) by the substitution in subsection (5) for paragraph (b) of the following paragraph:</p> <p>"(b) the approval, after consultation with the relevant district health council, by the relevant member of the Executive Council and the municipal council of the metropolitan or district municipality [.] <u>and the District Health Management Office</u>, as the case may be, of the detailed <b>[budget and]</b> performance targets for health services in the health district to which both the provincial and municipal spheres of government must contribute; and";</p> <p>(f) by the substitution in subsection (5)(c) for subparagraph (i) of the following subparagraph:</p> <p>"(i) deadlock-breaking mechanisms for cases where agreement between the relevant member of the Executive Council and the municipal council on the <b>[budget or]</b> performance targets contemplated in paragraph (b) cannot be reached within a period specified in the legislation; and"; and</p> |

| Short title of law | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                    |                    | <p>(g) by the substitution for subsection (6) of the following subsection:</p> <p style="padding-left: 40px;">"(6) The relevant member of the Executive Council must <u>together with the District Health Management Office</u> ensure that each health district and each health sub-district is effectively managed."</p> <p>6. The insertion of the following section after section 31:</p> <p style="text-align: center;"><b>"Establishment of the District Health Management Office</b></p> <p><b>31A.(1)</b> <u>The District Health Management Office is hereby established as a public entity under the supervision of the MEC of Health that must facilitate, coordinate and manage the provision of primary health care services at district level in compliance with national policy guidelines and applicable law.</u></p> <p><u>(2) The District Health Management Office must—</u></p> <p><u>(a) develop district health care plans in support of the district health system that identify health care service needs in terms of the demographic and epidemiological profile of a particular district;</u></p> <p><u>(b) liaise with provincial and municipal health authorities on any matter relevant to users within the relevant district;</u></p> <p><u>(c) identify certified and accredited public and private</u></p> |



| Short title of law | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                    |                    | <p><u>health care providers at primary care facilities that are suitable to receive funding for services within the relevant district;</u></p> <p><u>(d) interact with community representatives through the District Health Councils created in terms of section 31;</u></p> <p><u>(e) co-ordinate and manage the functioning of the streams of primary health care within the district, including district specialist support teams, primary health care teams and agents, and school health services.</u></p> <p><u>(f) provide information on the disease profile in a particular district that would inform the design of the health service benefits for that district;</u></p> <p><u>(g) improve access to health care services in a particular district at appropriate levels of care at health care facilities and in the community;</u></p> <p><u>(h) ensure that the user referral system referred to in section 44 is functional, including the transportation of users between the different levels of care and between public and private facilities accredited by the Fund if necessary;</u></p> <p><u>(i) facilitate the accreditation of health care providers, health establishments and suppliers at district level.</u></p> |

| Short title of law | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                    |                    | <p><u>including municipal clinics, as provided for in section 36;</u></p> <p><u>(j) facilitate the integration of public and private health care services including emergency medical services;</u></p> <p><u>(k) receive and resolve complaints from users in the district in relation to the delivery of health care services;</u></p> <p><u>(l) liaise with and report on a monthly basis to the national office of the Fund concerning—</u></p> <p><u>(i) difficulties with regards to access to health care services experienced by users;</u></p> <p><u>(ii) difficulties experienced by the office relating to service providers;</u></p> <p><u>(iii) health needs of users that are not being met;</u></p> <p><u>and</u></p> <p><u>(iv) any other matter required for the efficient functioning of health care services in the relevant district;</u></p> <p><u>(m) co-operate with the Investigating Unit of the Fund established in section 21(2)(e) of the National Health Insurance Act, 2018, in order to facilitate the investigation of complaints in the district."</u></p> |
|                    |                    | <p>7. The amendment of section 36—</p> <p><u>(a) by the insertion in subsection (5) after paragraph (a) of</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| Short title of law | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                    |                    | <p>the following paragraph:</p> <p><u>"(aA) accreditation of the health establishment or health agency in terms of section 36 of the National Health Insurance Fund Act, 2018;"</u></p> <p>(b) by the substitution in subsection (5)(b) for subparagraph (i) of the following subparagraph:</p> <p><u>"(i) the nature, type or quantum of services to be provided by the accredited health establishment or health agency; "</u></p> <p>(c) by the insertion in subsection (6) after paragraph (a) of the following paragraph:</p> <p><u>"(aA) if the accreditation of the health establishment or health agency in terms of section 36 of the National Health Insurance Fund Act, 2018, is withdrawn or is not renewed;"</u> and</p> <p>(d) by the substitution in subsection (6) for paragraph (d) of the following subparagraph:</p> <p><u>"(d) if the health establishment or the health agency, as the case may be, or a health care provider or health worker working within the health establishment, persistently violates the constitutional rights of users or obstructs the State in fulfilling its obligations to progressively realise the constitutional right of universal access to health services."</u></p> |
|                    |                    | 8. The amendment of section 41—                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

| Short title of law                         | No and year of law  | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                            |                     | <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>"The Minister, in respect of a central hospital, and the relevant member of the Executive Council <u>[.] and District Health Management Office,</u> in respect of all other public health establishments within the province <u>and district</u> in question, may—";</p> <p>(b) by the deletion in subsection (1) of paragraphs (c) and (d); and</p> <p>(c) by the deletion of subsections (2) and (3).</p>                                             |
| Allied Health Professions Act, 1982        | Act No. 63 of 1982  | <p>1. The amendment of section 38A by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>"Every practitioner shall, unless the circumstances render it impossible for him to do so, and before rendering any professional services, inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he intends to charge for such <u>complementary services that are not covered by the National Health Insurance Fund Act, 2018—</u>".</p> |
| Compensation for Occupational Injuries and | Act No. 130 of 1993 | <p>1. The amendment of section 1—</p> <p>(a) by the substitution for the definition of "compensation" of the following definition:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                    |



| Short title of law    | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                      |
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| Diseases Act, 1993    |                    | " 'compensation' means compensation in terms of this Act [and, where applicable, medical aid or payment of the cost of such medical aid];"; and<br>(b) by the deletion of the definition of "medical aid".                                                                                                                                         |
|                       |                    | 2. The amendment of section 16 by the substitution in subsection (1) for paragraph (a) of the following paragraph:<br>"(a) the payment of compensation [the cost of medical aid] or other pecuniary benefits to or on behalf of or in respect of employees in terms of this Act where no other person is liable for such payment;".                |
|                       |                    | 3. The amendment of section 22 by the deletion in subsection (3) of paragraph (b).                                                                                                                                                                                                                                                                 |
|                       |                    | 4. The amendment of section 42—<br>(a) by the deletion of subsection (2); and<br>(b) by the substitution for subsection (4) of the following subsection:<br>"(4) An employee shall be entitled [at his own expense] to have a medical practitioner or chiropractor of his choice present at an examination by a designated medical practitioner.". |
|                       |                    | 5. The repeal of section 73.                                                                                                                                                                                                                                                                                                                       |
|                       |                    | 6. The repeal of section 75.                                                                                                                                                                                                                                                                                                                       |
| Competition Act, 1998 | Act No. 89 of 1998 | 1. The amendment of section 3—<br>(a) by the substitution in subsection (1) for paragraph (b) of                                                                                                                                                                                                                                                   |

| Short title of law              | No and year of law  | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------------------------|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                 |                     | <p>the following paragraph:</p> <p>"(b) a collective agreement, as defined in section 213 of the Labour Relations Act, 1995; <b>[and]</b>"; and</p> <p>(b) by the insertion in subsection (1) after paragraph (b) of the following paragraph:</p> <p><u>"(bA) the operations of the National Health Insurance Fund as single public purchaser and single payer of national health care services; and"</u>.</p>                                                                                                                                                                                                                                                                                                                                                                                            |
| Correctional Services Act, 1998 | Act No. 111 of 1998 | <p>1. The amendment of section 12—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p><u>"(1) The Department must <b>[provide]</b>, within its available resources <b>[.]</b> and in accordance with the provisions of the National Health Insurance Fund, 2018, provide adequate health care services, based on the principles of <u>universal access</u> to primary health care, in order to allow every inmate to lead a healthy life."</u>; and</p> <p>(b) by the substitution for subsection (3) of the following subsection:</p> <p><u>"(3) Every inmate may be visited and examined by a medical practitioner of his or her choice and, subject to the permission of the Head of Prison, may be treated by such practitioner <b>[in which event the</b></u></p> |

| Short title of law           | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                              |                    | prisoner is personally liable for the costs of any such consultation, examination, service or treatment]."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Health Professions Act, 1974 | Act No. 56 of 1974 | <p>1. The amendment of section 53—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>"Every person registered under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him or her to do so, before rendering any <u>complementary</u> professional services <u>which are not covered by the National Health Insurance Fund, 2018</u>, inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he or she intends to charge for such services—";</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>"(2) Any practitioner who in respect of any <u>complementary</u> professional services rendered by him or her <u>which are not covered by the National Health Insurance Fund established under the National Health Insurance Fund, 2018</u>, claims payment from any person (in this section referred to as the patient) shall, subject to the provisions of section 32 of the Medical</p> |

| Short title of law        | No and year of law  | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                           |                     | <p>Schemes Act, 1998 (Act 131 of 1998), furnish the patient with a detailed account within a reasonable period."; and</p> <p>(c) by the substitution in subsection (3)(a) for the words preceding the proviso of the following words:</p> <p>"(a) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the professional board to determine the amount which in the opinion of the professional board should have been charged in respect of the <u>complementary services to which the account relates and which are not covered by the National Health Insurance Fund established under the National Health Insurance Fund, 2018</u>, and the professional board shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient in writing of the amount so determined".</p> |
| Medical Schemes Act, 1998 | Act No. 131 of 1998 | <p>1. The amendment of section 2—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>"(1) If any conflict, relating to the matters dealt with in this Act, arises between this Act and the provisions</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |



| Short title of law                                       | No and year of law | Extent of repeal or amendment                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                          |                    | of any other law save the Constitution, the <u>National Health Insurance Fund Act, 2018</u> , or any Act expressly amending this Act, the provisions of this Act shall prevail."; and<br>(b) by the deletion of subsection (2).                                                                                                                                                                              |
|                                                          |                    | 2. The amendment of section 12 by the deletion in subsection (1) of paragraph (a).                                                                                                                                                                                                                                                                                                                           |
| Occupational Diseases in Mines and Works Act, 1973       | Act No. 78 of 1973 | 1. The substitution for section 36 of the following section:<br><b>"Cost of medical examinations"</b><br><u>36. The cost of any medical examination under this Act, and the cost incurred to keep a person under observation in accordance with any provision of this Act, shall be purchased and paid for by the National Health Insurance Fund, 2018.</u> "; and<br>2. The repeal of sections 36A and 36B. |
| Prevention of and Treatment for Substance Abuse Act 2008 | Act No. 70 of 2008 | 1. The substitution for section 7 of the following section:<br><b>"Support for services delivered by service providers"</b><br><u>7. The Minister may from funds received from the National Health Insurance Fund provide financial assistance to service providers that provide services in relation to substance abuse.</u> "                                                                              |
| Road Accident Fund Act, 1996                             | Act No. 56 of 1996 | 1. The amendment of section 17—<br>(a) by the deletion in subsection (4) of paragraph (a); and<br>(b) by the deletion of subsections (4B), (5) and (6).                                                                                                                                                                                                                                                      |

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