

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**NATIONAL HEALTH
INSURANCE BILL**

[B 11—2019]

(As agreed to by the Portfolio Committee on Health (National Assembly))

[B 11A—2019]

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AMENDMENTS AGREED TO

NATIONAL HEALTH INSURANCE BILL

[B 11—2019]

CLAUSE 1

1. On page 5, after line 26, to insert the following definition:

“ **‘basic health care services’** means services provided by health care service providers which are essential for maintaining good health and preventing serious health problems including preventative services, primary health care, emergency medical services, diagnostic services, treatment services and rehabilitation services;”.
2. On page 6, in line 2, to omit “pre-hospital”.
3. On page 6, after line 23, to insert the following definition:

“ **‘health product’** means a product regulated in terms of the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965), the Hazardous Substances Act, 1973 (Act No. 15 of 1973), the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), or any other product regulated by a law governing its quality, efficacy or performance and used in the provision of health care services;”.
4. On page 7, after line 26, to insert the following definition:

“ **‘supplier’** means a natural or juristic person in the public or private sector providing goods and services other than personal health care services;”.
5. On page 7, in line 28, after “Minister” to insert “and directive issued by the Fund”.

CLAUSE 3

1. On page 8, from line 1, to omit subsection (5) and to substitute the following subsection:

“(5) The Fund is exempt from the Competition Act, 1998 (Act No. 89 of 1998), to enable it to fulfil its mandate as a single purchaser and single payer as contemplated in section 2.”.

CLAUSE 4

1. On page 8, in line 19, to omit “migrants” and to substitute “foreigners”.
2. On page 8, in line 23, to omit “such registration” and to insert “identity”.

CLAUSE 5

1. On page 8, in line 55, to omit “foreign nationals” and to substitute “foreigners”.
2. On page 9, in line 1, to omit “Unaccredited” and to substitute “Accredited”.
3. On page 9, in line 4, to omit “user” and to substitute “person”.

4. On page 9, in line 5, after “must” to insert “be registered as a user and”.
5. On page 9, in line 6, to omit “registration” and to substitute “identity”.

CLAUSE 6

1. On page 9, from line 10, to omit “, within the State’s available and appropriated resources”.
2. On page 9, in line 13, after “care” to insert “service”.
3. On page 9, in line 14, to omit “registration” and to substitute “identity”.
4. On page 9, in line 49, to omit “any other private health insurance scheme” and to substitute “private insurance covering an international traveller with a short-term, work or student visa”.

CLAUSE 7

1. On page 10, from line 24, to omit subparagraph (i) and to substitute the following subparagraphs:
 - “(i) the Minister must request the Minister of Public Service and Administration to consider and assist in the establishment of central hospitals as national government components in accordance with section 7(5) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);
 - (ii) where central hospitals are not established as national government components, the Minister must establish or designate central hospitals as organs of state in an appropriate form;”.

CLAUSE 8

1. On page 11, from line 1, to omit subsection (2) and to substitute the following subsection:

“(2) A person or user, as the case may be, must pay for health care services rendered directly or through a voluntary medical insurance scheme registered under the Medical Schemes Act or through a private insurance covering an international traveller with a short-term, work or student visa or out of pocket payment, if that person or user—

 - (a) is not entitled to health care services purchased by the Fund in terms of this Act;
 - (b) seeks services that are not deemed medically necessary by the Benefits Advisory Committee;
 - (c) seeks services that are not covered by the Fund as prescribed; or
 - (d) seeks services that are not included in the comprehensive health care services as advised by the Benefits Advisory Committee.”.

CLAUSE 11

1. On page 12, in line 16, to omit “outlined” and to substitute “contemplated”.
2. On page 12, from line 43, to omit subparagraph (iv) and to substitute the following subparagraph:

“(iv) receiving and collating all required data from health care service providers, health establishments and suppliers for the efficient running of the Fund;”.

CLAUSE 13

1. On page 13, from line 25, to omit subsection (1) and to substitute the following subsection:
 - “(1) The Board consists of not more than 11 persons—
 - (a) who broadly reflect the diversity of the Republic including in respect of age, race, gender and disability; and
 - (b) who are appointed by the Minister, one of whom represents the Minister on the Board.”
2. On page 13, in line 32, after “approval” to insert “by Cabinet”.
3. On page 13, from line 56, to omit subsection (9) and to substitute the following subsections:
 - “(9) The Minister may dissolve the Board only after an inquiry is conducted into the Board and Cabinet approves the dissolution.
 - (10) When the Board is dissolved, the Minister—
 - (a) must appoint an interim Board to carry out the functions of the Board for a period not exceeding three months, subject to any conditions he or she may require; and
 - (b) must, as soon as practicable but not later than three months from the day the Board is dissolved, appoint a Board in the manner contemplated in this section.
 - (11) When a vacancy occurs at any time before the expiry of the term of office of a member of the Board, the Minister—
 - (a) must appoint any other person to carry out the functions of a Board member for a period not exceeding three months, subject to any conditions that the Minister may require; and
 - (b) must, as soon as practicable but not later than three months from the day the vacancy occurs, appoint a member of the Board in the manner contemplated in this section.”.

CLAUSE 14

1. On page 14, in line 10, after “must” to insert “, after consultation with Cabinet,”.

CLAUSE 15

1. On page 14, from line 25, to omit paragraph (a) and to substitute the following paragraph:

“(a) the financial and administrative policies of the Fund;”.
2. On page 14, after line 50, to insert the following subsection:

“(5) The Board and Chief Executive Officer must meet with the Minister and the Director-General of the Department at least twice a year in order to exchange information necessary for the Board to carry out its responsibilities.”.

CLAUSE 16

1. On page 15, in line 6, after “direct”, to insert “or indirect”.

CLAUSE 17

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow after clause 16:

“Quorum, decisions and procedures

17. (1) A majority of all the members of the Board constitutes a quorum for a meeting of the Board.

(2) Any matter before the Board is decided by the votes of the majority of the members present at the meeting: Provided that—

- (a) the members present constitute a quorum for a meeting of the Board; and
- (b) the member presiding at the meeting must exercise a casting vote in addition to that member’s vote as a member, if there is an equality of votes.

(3) The Board must determine its own procedures in consultation with the Minister.”.

CLAUSE 19

1. On page 15, in line 22, to omit “recommendations” and to insert “recommendation”.
2. On page 15, in line 23, after “of” to insert “approval by Cabinet of the”.
3. On page 15, in line 32, after “Officer” to insert “, after a fair hearing,”.

CLAUSE 20

1. On page 15, in line 45, after “direction” to insert “and advice”.
2. On page 15, after line 48, to insert the following paragraphs:
 - “(c) terms and conditions of employment of the staff of the Fund;
 - (d) collective bargaining relating to the staff of the Fund;”.
3. On page 15, in line 52, to omit “an Investigating Unit” and to substitute “a Risk Management and Fraud Prevention Investigation unit”.
4. On page 16, in line 13, before “Procurement” to insert “Health Products”.
5. On page 16, in line 15, after “Risk” to insert “Management”.

CLAUSE 21

1. On page 16, in line 38, to omit “Minister”.
2. On page 16, in line 40, to omit “of the Fund” and to substitute “and the Board”.
3. On page 16, in line 40, to omit “Minister, ”.
4. On page 16, in line 41, to omit “Health” and to substitute “the Department”.

CLAUSE 23

1. On page 17, after line 4, to insert the following subsection:

“(5) A member of a committee contemplated in subsection (1) must—

- (a) act in a way that is impartial and without fear, favour or prejudice;
- (b) not 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
- (c) not use his or her position or any information entrusted to him or her for self-enrichment or to improperly benefit any other person.”.

CLAUSE 24

1. On page 17, after line 21, to insert the following subsection:

“(5) A member of a committee contemplated in subsection (1) must—

- (a) act in a way that is impartial and without fear, favour or prejudice;
- (b) not 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
- (c) not use his or her position or any information entrusted to him or her for self-enrichment or to improperly benefit any other person.”.

CLAUSE 25

1. On page 17, from line 35, to omit “when he or she is no longer a member of the institution that nominated him or her or”.

CLAUSE 28

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause to follow after clause 27:

“Conduct and disclosure of interest

28. (1) A person appointed as a member of a committee contemplated in this Chapter must—

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

(2) A member contemplated in subsection (1) must—

- (a) act in a way that is impartial and without fear, favour or prejudice;
- (b) not 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
- (c) not use his or her position or any information entrusted to him or her for self-enrichment or to improperly benefit any other person.

(3) A member contemplated in subsection (1) who has a personal or financial interest in any matter in which such committee gives advice, must disclose that interest when that matter is discussed and be recused from the discussion.”.

CLAUSE 35

1. On page 19, in line 52, to omit “transfer funds” and to substitute “reimburse payment”.
2. On page 19, from line 55, to omit “transferred to Contracting Units for Primary Health Care” and to substitute “reimbursed directly to accredited and contracted primary health care service providers and health establishments.”.
3. On page 20, in line 1, before “Emergency” to insert “Facility-based”.
4. On page 20, after line 3, to insert the following paragraph:

“(b) Mobile emergency medical services provided by accredited and contracted private health care service providers must be reimbursed on a capped case-based fee basis with adjustments made for case severity, where necessary.”.

CLAUSE 37

1. On page 20, from line 13, to omit subsection (1) and to substitute the following subsection:

“(1) A Contracting Unit for Primary Health Care is hereby established.”.
2. On page 20, in line 23, after “must” to insert “, amongst others,”.

CLAUSE 38

1. On page 20, in line 44, to omit “**Office of Health Products Procurement**” and to substitute “**Health Products Procurement Unit**”.
2. On page 20, in line 45, to omit “in” and to substitute “after”.
3. On page 20, from line 45, to omit “an Office of Health Products Procurement” and to substitute “a Health Products Procurement unit”.
4. On page 20, in line 48, to omit “Office of Health Products Procurement” and to substitute “Health Products Procurement unit”.
5. On page 20, in line 52, to omit “Office of Health Products Procurement” and to substitute “Health Products Procurement unit”.
6. On page 21, in line 13, to omit “Office of Health Products Procurement” and to substitute “Health Products Procurement unit”.
7. On page 21, in line 18, to omit “Office of Health Products Procurement” and to substitute “Health Products Procurement unit”.

CLAUSE 39

1. On page 21, from line 37, to omit paragraph (a) and to substitute the following paragraph:

“(a) be in possession of and produce proof of registration by a recognised statutory health professional council;”

2. On page 21, after line 39, to insert the following paragraph:

“(b) be in possession of and produce proof of certification by the Office of Health Standards Compliance; and”
3. On page 21, in line 41, after “criteria” to insert “accompanied by a budget impact analysis,”.
4. On page 22, from line 10, to omit “for recording on the Health Patient Registration System” and to substitute “on the prescribed information platform”.
5. On page 22, in line 12, to omit “national”.
6. On page 22, in line 26, to omit “as per the law”.
7. On page 22, in line 54, to omit “withdraws” and to insert “intends to withdraw”.
8. On page 22, in line 55, to omit “refuses” and to insert “intends to refuse”.
9. On page 22, in line 58, to omit “the decision” and to insert “its intention”.
10. On page 22, in line 60, to omit “a decision” and to insert “intention”.
11. On page 23, in line 8, after “establishments” to insert “and the periods of time applicable to health care service providers and health establishments where accreditation is withdrawn, not renewed or appealed”.
12. On page 23, after line 8, to insert the following subsection:

“(12) The Fund may grant conditional accreditation to a health care service provider or health establishment as prescribed by the Minister after consultation with the Office of Health Standards Compliance.”.

CLAUSE 41

1. On page 23, from line 58, to omit paragraph (a) and to substitute the following paragraph:

“(a) An accredited primary health care service provider or health establishment providing primary health care services must be reimbursed by the Fund in accordance with the prescribed capitation strategy.”

CLAUSE 44

1. On page 24, in line 46, after “Minister” to insert “after consultation with Cabinet”.
2. On page 24, in line 48, to omit “Board” and to substitute “Appeal Tribunal”.

CLAUSE 46

1. On page 25, in line 13, to omit “of the Board”.
2. On page 25, in line 15, to omit “Board” and to substitute “Appeal Tribunal”.

CLAUSE 47

1. On page 25, in line 25, to omit “180” and to substitute “90”.
2. On page 25, after line 28, to insert the following subsection:

“(4) The operation and execution of a decision which is the subject of an appeal is suspended pending the decision of the appeal.”.

CLAUSE 48

1. On page 25, in line 36, to omit paragraph *(b)*.

CLAUSE 49

1. On page 25, in line 48, after “shifting” to insert “of”.
2. On page 25, in line 48, after “from” to insert “national government departments and agencies and”.

CLAUSE 54

1. On page 27, in line 13, after “discloses” to insert “confidential”.

CLAUSE 55

1. On page 27, in line 50, after “accreditation” to insert “and conditional accreditation”.
2. On page 28, from line 17, to omit paragraph *(u)*.
3. On page 28, from line 43, to omit subsection (4).

CLAUSE 57

1. On page 28, in line 57, to omit “five” and to substitute “three”.
2. On page 28, in line 57, to omit “2017 to 2022” and to substitute “2023 to 2026”.
3. On page 29, after line 9, to insert the following subparagraph:

“(v) prepare for the establishment of the Fund as a Schedule 3A entity contemplated in section 9, including developing and implementing administrative and personnel related arrangements.”
4. On page 29, in line 11, to omit “four” and to substitute “three”.
5. On page 29, in line 11, to omit “2022 to 2026” and to substitute “2026 to 2028”.

Schedule

1. On page 31, in the second line of the second column, to omit “Control”.
2. On page 31, from the fourth line of the third column, to omit “in consultation with the Office of Health Products Procurement established in”

section 38 of the National Health Insurance Act, 2019” and to substitute “after consultation with the National Health Insurance Fund established by section 9 of the National Health Insurance Act, 2019”.

3. On page 31, from the fourteenth line of the third column, to omit item 1 (*b*).
4. On page, 32, in the twenty-sixth line of the third column, to omit “and shall in a case to”.
5. On page 32, in the twenty-seventh line of the third column, before “which” to insert “and shall in a case to”.
6. On page 33, in the nineteenth and twenty-fourth lines of the third column, after “him” to insert “or her” and after “he” to insert “or she”.
7. On page 33, from the twenty-ninth line of the third column, to omit item 1 (*a*).
8. On page 33, from the forty-ninth line of the third column, to omit item 3.
9. On page 35, in the fourth line of column three, after “services;” insert “and”.
10. On page 35, from the twenty-first line of column three, to omit subsection (3) and substitute the following subsection:

“(3) Every inmate may be visited and examined by [**a medical practitioner of his or her choice and**] an accredited health care service provider, subject to the permission of the Head of the Correctional Centre [**may be treated by such practitioner, in which event the inmate is personally liable for the costs of any such consultation, examination, service or treatment**].”.
11. On page 37, in the fourth line of column three, after “Act,” to insert “1999 (Act No. 1 of 1999)”.
12. On page 38, after the thirty-second line of column three, to insert “(*e*) by the insertion in subsection (2) after paragraph (*l*) of the following paragraphs:”
13. On page 39, in the first line of column three, to omit “(*e*)” and substitute “(*f*)”.
14. On page 40, in the twenty-first line of column three, to omit the full stop and substitute “; and”.
15. On page 41, in the twenty-eighth line of column three, to omit “subparagraph” and substitute “subparagphs”.
16. On page 43, from the first line to omit section 31B.
17. On page 44, from the thirty-second to thirty-third line of the third column, to omit “Office of Health Products Procurement” and to substitute “Health Products Procurement unit”.
18. On page 44, in the forty-eighth line of the third column, after “abuse;” to insert “and”.
19. On page 44, in the fifty-second line of the third column, after “abuse” to substitute semi-colon with a full stop.
20. On page 44, after the fifty-seventh line of the third column, to insert “(***d***) **provide assistance to persons who establish substance abuse services**”.

ARRANGEMENT OF ACT

1. On page 4, in line 8, to omit “Procedures” and to insert “Quorum, decisions and procedures”.
2. On page 4, in line 26, to omit “Disclosure of interests” and to substitute “Conflict and disclosure of interest”.
3. On page 4, in line 38, to omit ‘Office of Health Products Procurement’ and to substitute “Health Products Procurement Unit”.

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