

PERSONAL FINANCE (Independent On Saturday)
28 Apr. 2012, p.18

Largest restricted scheme in SA won't claim expenses you recover from RAF

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South Africa's largest restricted medical scheme, the Government Employees Medical Scheme (Gems), has decided that it will not pursue or for claim to any medical expenses that its members who are involved in a motor vehicle accident recover from the Road Accident Fund (RAF).

Dr Eugene Watson, principal officer of the scheme, says where the scheme is obliged to pay claims - in the case of guaranteed benefits or prescribed minimum benefits - a claim against a third party, such as the RAF or in terms of the Compensation for Occupational Injuries and Diseases Act (COIDA), will not detract from the scheme's duty to pay.

Therefore Gems has removed those rules that obligate its members

to recover their medical costs from the RAF or, in terms of COIDA, from any other third party that is potentially liable for medical expenses, Watson says.

Gems does not think it is fair and equitable to recover monies from insurance - to varying degrees and with varying values - and who received agreement that Gems is in any case obliged to cover in terms of its benefits and the prescribed minimum benefits, Watson says.

The extent to which members would make use of legal services to recover medical expenses from third parties is not equitable and consistent, he says.

PROFIRMED AND PRO SANO
As is the case with Discovery Health Medical Scheme, the rules of Profirmed, a medical scheme for professionals, and Pro Sano, an

open medical scheme, exclude benefits for medical expenses arising from motor vehicle accidents that can be claimed from the RAF.

Both schemes will pay claims arising from such accidents if you give them an undertaking that once you have received compensation from the relevant third party, such funds will be reimbursed to the schemes, say Graham Anderson, principal officer of Profirmed, and Agibak Mhlimbo, principal officer of Pro Sano.

Anderson says Profirmed does insist that members who need to claim from the RAF use the services of a lawyer, but the scheme will accept an RAF payment less the legal costs incurred.

Mhlimbo says Pro Sano does not insist that members appoint attorneys to assist with their claims, but recovered medical expenses must be repaid to the scheme in full

without the deduction of legal fees.

He says Pro Sano's underlying document enables a member to request that a specialised personal injury lawyer contact him or her and provide advice. An undertaking document contains an agreement between a member and a medical scheme in which the member undertakes to claim from the RAF and repay the scheme. The legal advice is free of charge and the member is under no obligation to make use of the specialist's services, Mhlimbo says.

LEGAL FEES DEDUCTED

Dr Jonathan Broomburg, chief executive of Discovery Health, says Discovery will deduct legal costs for medical claims recovered from the RAF for what the RAF Act defines as non-serious injuries, because the medical expenses often make up the bulk of these claims.

However, in the case of serious injuries as defined by the RAF Act, Discovery Health expects the medical costs to be repaid to it in full and the legal fees to be paid from the RAF's contribution towards the legal costs.

Discovery refers its members to a panel of lawyers with whom it has agreements and who do not charge fees based on medical expenses. Members who use the lawyers on this panel are not expected to sign the scheme's undertaking to claim from the RAF.

Ernsberg says only a small amount of work is required when submitting claims for medical expenses to the RAF.

However, personal injury lawyer Floreld Sobroff says lawyers have to prove that an accident was not your fault before the RAF will pay out for any medical or other expenses. Registrar of Medical Schemes

Dr Mzwabisi Gensho says members do not have to incur legal fees to lodge a claim with the RAF.

An RAF spokesperson confirmed that you can lodge a claim without the services of an attorney, and you can ask the RAF for both guidance on how to claim and financial assistance to have your injuries assessed.

But Sobroff says it is "a pack of lies" to suggest you can submit a claim to the RAF and receive appropriate compensation at no risk or cost. In most cases, the RAF settles matters only when it is at the doors of the court, he says.

The RAF spokesperson confirmed that most claimants are assisted by attorneys.

Last year, Profirmed received R1.1 million in recovered claims from the RAF and registered new cases to the value of R1.4 million with the fund, Anderson says.