Association of Healthcare Funders of Zimbabwe

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AHFoZ Position Paper on the proposed Medical Aid Societies Act

Preamble

Access to basic, accessible and adequate health services is a fundamental right enshrined in the Constitution of Zimbabwe. The provision of affordable healthcare to all Zimbabweans is the backbone of Zimbabwe's National Health Policy and medical aid societies together with healthcare providers all have a pivotal role to play in ensuring that this Policy is implemented.

The impasse between the healthcare providers and the medical aid societies has been a long standing one. For over a decade there has been no agreement on tariffs and this has severely strained the working relationships between the medical aids and the health funders. In May 2014 the government culminated promulgated ***General Notice 159 of 2014, Consultation Fees and Private Hospital and Associated Units fees***, in an attempt to address these impasse. The Association of Healthcare Funders of Zimbabwe (AHFoZ) argued then that the published tariffs are not viable vis-à-vis the contributions made by members. The expectations of the providers could not be accommodated without increasing member subscriptions. This is the position which still obtains today.

There has been allegations that some medical aid societies have failed to pay healthcare providers timeously and consistently, which has aggravated the stalemate that exists. There have been assertions of preferential treatment and payment of claims to preferred providers, poor or non-existent corporate governance frameworks and practices by medical aid societies.

Early this year the impasse referred to above escalated when the service providers advised the public that they will not be accepting medical aid carsd with effect from 1 July 2016. A fortnight before that deadline the Minister of Health and Child Care intervened and called all the parties to a meeting. The challenges in the working relationships between medical aid societies, AHFoZ and the providers of healthcare services formed the basis of the meeting. The crisis was averted and the Minister issued a statement to that effect and also pledging to seek a lasting solution to

the impasse. On the 23rd of June 2016, the Minister of Health and Child Care addressed the National Assembly.

AHFoZ is aware that the position of the Ministry if to promulgate a new Act, the Medical Aid Society Act ("the Act"). The purpose of the Act will be to appoint the Medical Aid Societies Regulatory Authority ("the Authority") to oversee the operations of medical aid societies and ensure that all stakeholders' interest are protected. It is also anticipated that this act will create an environment that will enable the challenges that have persisted between medical aids and health service providers to be handled in a constructive manner.

Position

The purpose of medical aid societies is to reimburse the **whole or part** of any expenses incurred by its members when they access healthcare services. This ability to reimburse must also be supported by medical aid societies being able to collect the contributions timeously from members or their representatives.

The promulgation of the Act is a welcome position as we see it as a positive attempt to address the situation and effectively regulate the relationships between the parties if it protects the interests of all parties concerned. The following are our views on the Act:

1. It must protect both the interests of members contributing to medical aid societies and the medical aid societies.

2. The Act should revisit the annual licensing of medical aid societies. This inhibits business continuity and investment by medical aid societies due to the uncertainty created by annual registration. The Act can mitigate against any issues arising in a medical aid society by establishing robust supervisory structures that will ensure all the stakeholders are protected and the respective regulator will be able to also identify signs of distress at an early stage. For example by conducting offsite or onsite examinations to ensure the viability of a medical aid society. The Regulator could borrow from other sectors, namely the banking sector that has robust and effective supervisory mechanisms.

3. It should clearly define the role of the Authority, which we believe should include:

    a. The protection of the interests of both medical aid societies and their members against errant healthcare providers
    b. To enforce the agreed ethical practice by medical aid societies, providers and members and ensure robust measures to deal with non-compliance by any of the parties
    c. Fair adjudication of complaints in relation to medical aid societies

4. Members of the Authority should be appointed on merit and there must be adequate representation from the respective medical aid societies and healthcare providers

associations. It is suggested that any health practitioners appointed to the Authority should specifically be retired non-practicing individuals.

5. The Act should encourage a conducive business environment for all participants in the healthcare delivery chain. Its application should not be onerous on medical aid societies. The tendency to refer to the Act as a mechanism **"to reign in"** or **"restore order"** in medical aid societies should be discouraged. It should instead create an environment where other entrepreneurs, both local and international, are encouraged to establish medical aid societies and enhance health care provisioning in Zimbabwe.

6. The prevailing stalemate regarding tariffs has existed over many years, it therefore means that we do not believe that the gazetting of price controls is an efficient mechanism to deal with the situation. We would rather propose that a national reference tariff regime aligned to the National Health policy be agreed to by all the stakeholders. The engagement of actuaries, health economists, accountants and other Consultants that offer similar services is encouraged to ensure a scientific and economic tariff calculation is done. The tariff calculations should consider issues of affordability and international pricing standards. An agreed tariff regime has the following benefits:

    a. It will remove the need for the Authority to "superintend" and mediate on tariffs
    b. The competition to offer the best price will exist, however this will be confined to the national tariff that has been agreed.
    c. Service providers and medical aid societies can negotiate within the band of the tariffs for discounts and premiums which will encourage better service delivery and a more effective reimbursement system

7. **Section 32 of Statutory Instrument 330 of 2000** allows for the establishment of code of practices between:

    a. medical aid societies as between each other and in relation to the public
    b. health-care providers in relation to medical aid societies and members of societies
    c. medical aid brokers or consultants

    The Act should encourage the parties to operationalize the Codes of Practice and allow for the healthcare providers and medical aid societies to establish and operate on agreed service level agreements (SLA). We believe that the benefits of the SLA are that:

    a. the tariffs are clearly agreed between the parties
    b. The dispute resolution mechanisms are clearly set out which will also remove the need for the proposed Authority or Minister mediating in disputes
    c. The SLA will set out the service standards expected between the parties including the payment of claims
    d. The SLA will set out the requisite penalties for breaches in line with the confines of the law

The operationalization of the Code of Practices and enhancement of these by SLA's will:

a. Remove the need for **section 16A and 16B of Statutory Instrument 35 of 2004**, which we believe is onerous on medical aid societies and is at times abused by healthcare providers. In reality a significant number of service providers blatantly ignore this legal requirement and demand cash from our members. However when it is convenient to them we have noted that service providers do invoke this section.
b. Offer a solution to the anomaly that is created by the failure by employers to remit contributions to medical aid societies timeously as the parties will have agreed on the mechanisms and turn-around for claims payments.

8. Compliance is key to the establishment of an effective medical aid society system, however the Act should not encourage harsh enforcement measures, namely punitive fines and cancellation of licenses as first options.
    a. The Act should provide for the issuance of corrective orders
    b. A reasonable compliance period by parties that are non-compliant with the letter of the law.
    c. The Act should clearly define the circumstances under which cancellation or deregistration will occur.

9. Medical aid societies have in recent years experienced an increase in fraudulent activities by both the members and healthcare providers. The Act should introduce mechanisms to protect medical aid societies from such prevalent behaviours.

10. The Act should not allow for broad powers of the Authority, these should be specific to enhancing the relationship between medical aid societies, healthcare providers and medical aid society members while balancing every parties interests.

11. The Act should protect the healthcare providers that are operating within the confines of the law and rules governing medical aid operations.

Conclusion

Medical aid societies are key to the agenda for an effective National Health Policy. The Act should be all encompassing and must endeavor to establish harmonious relations between the stakeholders.