



Reference: LCBO and Demarcation update
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Circular 12 of 2020: LCBO and Demarcation Update

The Council for Medical Schemes (CMS) wishes to update all stakeholders on the progress in addressing the fate of the demarcation products through a Low-Cost Benefit Option (LCBO) guidance framework.

The Council undertook an extensive engagement exercise with the key stakeholders to explain the rationale and context behind the issuing of [Circulars 28, 30, 80](#) and [82](#) in March and December 2019, respectively. These circulars were accompanied by two key research outputs namely: a detailed [discussion paper](#) on the feasibility of the introduction of a low-cost benefit option, and a comparative analysis between the demarcation products and the medical schemes.

These stakeholder engagements included a broad range of stakeholders including National Treasury, Financial Sector Conduct Authority (FSCA), Prudential Authority (PA), Board of Healthcare Funders (BHF), Health Funders Association (HFA), medical schemes, administrators, Managed Care Organisations (MCOs), brokers, insurances and related service providers.

Although these engagements are continuing, they have been very productive and have led to the joint decision of establishing two stakeholder-based Advisory Committees. These will be tasked with:

1. Addressing the challenges faced by different stakeholders concerning their product offerings;
2. Developing a road map leading to end March 2021;
3. Serve as a platform for engagements on the draft LCBO framework that CMS has developed;
4. Provide the inputs on the LCBO framework before it is submitted by CMS for approval by the Minister of Health.

The [terms of reference](#) of these advisory committees are appended for stakeholder comments. Ms Avril Jacobs is the designated chairperson for the Insurance stream, and Mr Michael Willie will chair the Administration and Funders stream.

Inputs to these ToRs, as well as nominations (including CVs) — preferably through industry associations — are to be emailed to lcbo@medicalschemes.com by 28 February 2020.

Continuing engagements with stakeholders will proceed immediately after the constitution of these advisory committees. As these Advisory committees are a priority, the CMS therefore encourages inputs within the set timelines.

It has been noted that some stakeholders have lodged appeals to the CMS in terms of the provisions of the Act. These are noted and will be dealt with internally. The CMS requests all the concerned parties to allow the engagement process to proceed with their cooperation.

The CMS confirms its concurrence with the media statements issued by National Treasury on [28 October](#) and [23 December 2016](#), which unpack the purpose of the demarcation regulations: *The regulations seek to demarcate the responsibility for supervision of medical schemes and health insurance products, and ensure that health insurance products do not undermine the social solidarity principles inherent in medical schemes, resulting in better protection for consumers. Accordingly, the regulations do not allow insurers to continue to provide primary healthcare insurance policies. These types of benefits will, going forward, be provided in accordance with the MSA.*

It should be noted that in terms of the Demarcation Regulations, demarcation products were outlawed as early as 2017 and only exist through the [exemption framework](#) that was jointly developed by Treasury, NDoH, FSCA and CMS for this purpose. This framework [applied](#) between April 2017 and March 2019 but was further [extended](#) to 31 March 2021, in consultation with the abovementioned parties.

This extension was not intended to apply in perpetuity, but was meant to provide a transitional arrangement for the migration of demarcations products to the medical schemes regulatory environment.

It is therefore in the best interest of all stakeholders to ensure that the work that will be dealt with by the Advisory committees proceeds promptly. Should there be no significant progress in addressing these challenges, the CMS will find it difficult to continue providing exemption to these products.

The final LCBO guidance framework has to be comprehensive and tackle both the challenges faced by medical schemes and primary healthcare insurance providers. Medical schemes are therefore also encouraged to ensure that they participate in these Advisory committees for their inputs to be considered.

We look forward to your inputs.

Kind regards,



Dr Siphon Kabane
Chief Executive & Registrar
Council for Medical Schemes



DEMARCATIION PRODUCT ADVISORY COMMITTEE (DPAC)

Terms of Reference (TOR's)

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1. Purpose	The purpose of this Advisory Committee is to advise on matters arising from Circular 80 and Circular 82 of 2019, particularly the decision not to grant further exemptions on demarcation products as per section 8(h) of the Medical Schemes Act No 131 of 1998 (MSA), read with the Renewal Demarcation Exemption Framework.
2. Objectives	The objectives of the Advisory Committee are to give recommendations based on further research work, additional data and input from various stakeholders as it relates to demarcation products. Other pieces of research and analytical work will also be considered in order to provide a comprehensive set of recommendations that will be based on stakeholder input.
3. Chairing & Membership	The Advisory Committee will be chaired by the CMS; Ms Avril Jacobs for the Insurers, and Mr Michael Willie for Funders and Administrators. Membership will be through nominations from various industry bodies and interested groups.
4. Term of Office	The term of office to this Advisory Committee will automatically end at the end on the delivery of the recommendations.
5. Frequency of Meetings	The Advisory Committee will meet periodically on an on-going basis as agreed between members of the Advisory Committee.

<p>6. Quorum</p>	<p>A quorum is constituted by the number of members of the Advisory Committee physically present at a meeting as convened by the Chairperson of the Advisory Committee.</p> <p>Attendance of the Advisory Committee meetings is compulsory for the representatives.</p> <p>Should an Advisory Committee representative not be available, s/he should nominate another representative from their respective organizations to attend on his/her behalf. The representative will have full authority to represent their organizations in making decisions.</p>
<p>7. Decision Making Process</p>	<p>Decisions by the Advisory Committee are recommendations for the Registrar's consideration which will subsequently be tabled to Council.</p> <p>Ideally recommendations should be made by consensus by members of the Advisory Committee.</p>
<p>8. Functions</p>	<p>The Advisory Committee is required to enhance Council's Regulatory framework as established by the MSA, and should:</p> <ol style="list-style-type: none"> 1. Make inputs and/or review technical matters pertaining to demarcation products. 2. Consider all technical matters on policy analysis and inputs from stakeholders with regards to Demarcation products.
<p>9. Travel and Subsistence Costs</p>	<p>All costs to and from the Advisory Committee meetings will be borne by the members of the Advisory Committee, respectively.</p>

<p>10. Advisory Committee Support</p>	<p>Secretarial support will be rendered by the Council for Medical Schemes.</p> <p>Members of the Technical Advisory Committee will be required of provide technical input to issues raised, as most members of the technical Advisory Committee will also be expected to conduct technical work that will be assigned by the Advisory Committee.</p>	
<p>11. Version</p>	<p>Version 1</p>	<p>2020-02-19</p>