

Back to square one

THE North Gauteng high court in Pretoria this week dashed hopes by the Board of Healthcare Funders (BHF) and the SA Municipal Workers' Union National Medical Scheme (Samwumed) for cost containment in the private healthcare industry. Judge Cynthia Pretorius dismissed with costs their request for a change in the law on prescribed minimum benefits (PMBs). For over a year, the BHF (representing medical schemes) and the industry regulator, the Council for Medical Schemes, have been at loggerheads over PMBs. The BHF wants PMB payments to be based on scheme rates and not on service provider rates or invoices. However, regulation 8 of the Medical Schemes Act requires full scheme payment using risk pool funding and not member savings. Judge Pretorius questioned the BHF's authority to act on behalf of its 75 medical scheme members since only 15 had declared their support in a matter that would eventually affect all 98 registered schemes in SA. The judge said that the fact that the applicants were in a practical sense affected by these rules did not give them adequate *locus standi*. The BHF and Samwumed were up against 13 respondents, including the CMS, SA Medical Association (Sama), Hospital Association of SA, Mediclinic Southern Africa and the SA Private Practitioners' Forum. The BHF said it will "not give up". It is consulting senior counsel and has requested an urgent meeting with Health Minister Dr Aaron Motsoaledi, according to the board's spokesman Heidi Kruger. She said the judgment was a defeat for government as it too would be gravely set back if it tried to implement National Health Insurance under a service provider "free for all" environment. Kruger said the Ministry's proposal for a national pricing forum would take years to implement and the BHF hoped a judgment making PMBs payable at scheme rates would have been a good way to control escalating tariffs. CMS registrar Dr Monwabisi Gantsho described the judgment as a victory, saying PMBs were the cornerstone of medical scheme membership. He said PMBs were included in the legislation for a reason - to protect beneficiaries against unforeseen ill health that might prove financially catastrophic for them. Sama chairman, Dr Norman Mabasa, said the case should not have gone to court and underlined the need for forums to negotiate private health tariffs.

Xolile Bhengu: The Financial Mail, 11 November 2011