

HPCSA DITCHES ITS UNPOPULAR GUIDELINE TARIFF

16 November 2012

In a letter addressed to Werksmans attorneys dated the 13th November, the lawyers for the HPCSA Gildenhuis Malatji, announced that the Executive Committee of the Medical and Dental Professions Board had at its recent meeting resolved inter alia to:

1. Rescind its earlier decision approving the Guideline tariff for publication,
2. Rescind the Board notice published on the 14th September 2012 indicating the Boards intention to determine and publish guideline tariffs and requesting interested persons to submit their comments on the proposed guideline tariffs by the 19th October 2012, and
3. Recommence the process of the development, determination and publication of the guideline tariff *de novo* and in line with the provisions of the Promotion of Administrative Justice Act 2000 ("PAJA")

The letter went on to state that a notice indicating the Boards intention to embark on the new process of developing and publishing a guideline tariff as contemplated in section (53)(3)(d) of the Act will be published in due course.

This remarkable turnaround has come about as a result of sustained pressure brought by SAPPF and its partners SADA and SAMA together with the Anaesthetic and Radiological Associations, the National Pathology Group and the GP IPA Foundation, who had objected to the guideline tariff on the basis that it was based on the outdated 2006 NHRPL reimbursement tariff.

SAPPF et al objected to the fact that they had not been engaged meaningfully in the development and determination of the tariff which limited their rights to fair administrative action and therefore rendered the tariff unconstitutional and unlawful.

Furthermore, because the published tariff bore no relation to the actual costs of providing services to be rendered, and in most cases were less than the fees published in 2006, the tariff was unreasonable and irrational.

The professional bodies also objected to the tariff on the grounds that the ACT did not allow the HPCSA to publish a tariff that was not an ethical tariff as contemplated by section (53)(3)(d) and was therefore *ultra vires* section (53)(3)(d).

The Act specifically allows the Board to establish a tariff to enable it to perform its function of ethically policing the profession with respect to complaints brought by the public of overcharging. That is not at issue. What is at issue is that such a tariff should be one that clearly indicates that charges raised that exceed the tariff are unethical. This naturally follows that the ethical tariff should be a maximum tariff that describes the full scope of practice, and not a tariff based on an outdated and inaccurate reimbursement tariff of yesteryear.

SAPPF and its collegial partners will continue to keep a close watch on the development of the new tariff and will ensure that the interests of its members are protected by insisting that:

- The guideline tariff is developed for the sole purpose of adjudicating on claims of overcharging
- That the tariff takes into consideration the true costs of providing a medical or dental service and the full scope of practice and,
- That all interactions in respect to the development of the proposed tariff between the professions and the Board, take place within the parameters permitted of the Competition Act.

Dr Chris Archer

CEO