19/08/2024

To: NAMAF Administration

pcns@namaf.org.na

CC: Registrar of Medical Aid Funds

Dear Ms Mbai,

COMPULSARY ICD-10 CODING FOR CLAIM REIMBURSEMENT

Receipt of NAMAF's two emails dated 16 August 2024 on the implementation of ICD 10 codes which was sent to Health Care Practitioners bears reference.

Kindly allow NPPF to respond as follows:

1. It is indeed so that regulation 6 (g) of the Regulations made under section 44 of the Medical Aid Funds Act, 1995 (Act No. 23 of 1995) obliges suppliers of medical services to include item code numbers relating to services rendered on a statement of account to a member of a registered Medical Aid Fund. This is common cause and performed by practitioners for years (based on the NAMAF benchmark tariff codes which were captured by NAMAF from a third party). There is no provision in the Regulations for ICD-10 coding. More specifically, there is no legal duty on service providers to employ the ICD-10 coding system for the sole benefit of the funds and NAMAF. Any tactic by NAMAF to force ICD-10 coding on service providers, by threat of non-payment, is ultra vires, and outright blackmail and extortion.

2. The Namibian Government is a member of the World Health Organisation and holds ownership over the relevant coding systems including the ICD-10. There is no regulation issued by the Ministry of Health and Social Services that **compels** Health Care Practitioners **to add ICD-10 codes** to medical aid fund claims. If there is indeed such a regulation, we would kindly receive such document.

3. According to the MAF Act *"the object of the Association shall be to control,*

promote, encourage and co-ordinate the establishment, development and functioning of funds in Namibia". The act does not allow medical aid funds to partner with the WHO to be police officers for MOHSS policies. There is thus no statutory base for NAMAF to demand that providing ICD 10 codes becomes the prerequisite for payment of MAF claims in 2025.

4. The new version of the ICD (ICD-11) was released on June 18, 2018, as a preliminary version. It was officially presented at the World Health Assembly in May 2019 and was used as the official reporting system by member states since the beginning of January 1, 2022. NAMAF was part of the stakeholders invited by the WHO in December 2023 where it was made known that Namibia is formally transitioning to the ICD-11 system according to the framework that was set out during these discussions.

5. The transition to a new system sets out to eliminate the flaws of the previous system. The ICD-10 has officially become redundant in Namibia in December 2023, yet NAMAF attempts to enforce, in ultra vires manner, an outdated system on Health Care Practitioner without having any statutory powers to do so.

6. Fund rules pertain to medical aid fund members and not Health Care Practitioners. NAMFISA's role is to safeguard the interests of the members of medical aid funds. Regulation 6 (g) only specifies that the item code for services provided be specified. NAMAF is now referring to "the entire coding structure of NAMAF" to render an account or statement submitted to a fund as "invalid" if not submitted.

7. If a service has been delivered by a Health Care Practitioner to a Fund member within the applicable HCP Acts, the resulting account will now suddenly become valid. NAMAF's interpretation of "valid", however, refers to whether a fund will pay a claim to a provider on behalf of its member and not whether the account from a Health Care Practitioners to a patient is "valid". Your continued, ultra vires encroachment on the regulation of healthcare providers is again noted and rejected by the NPPF.

8. Health Care Practitioners are clinicians who deliver a service to their patient. Whenever a patient presents a medical aid fund card, instead of cash the credentials are accepted **provisionally** based on the understanding that the MAF pays for the services. This is enshrined in the laws regulating medical

aid funds. We pause to reiterate that NAMAF is a regulator of medical aid funds, which statutory mandate it continues to ignore since 1995 as it still has not drafted rules to regulate the conduct of funds. Instead, it continues, in ultra vires manner, to impose restrictions on, and make prescriptions applicable to healthcare providers. NAMAF's confusion over its role in the medical aid fund industry, and its refusal to comply with its statutory mandate, remains unfortunate.

9. The Regulations make clear provision under sub regulation **7.** (1) (b) that *A registered fund shall not in its rules or in any other manner impose any condition conferring upon the registered fund the right to limit, exclude, retain or withhold the payment of any benefit in respect of any member or former member of such fund or any dependent of such member on account of - (b) the non-payment, partially or fully, of an amount which is owning to a supplier of medical services by the member or former member of the fund.*

10. Any provision in a rule by any fund to impose ICD-10 codes as a condition of payment will be contravening the laws regulating medical aid funds. We trust that the Registrar of Medical Aid Funds appreciates this before approval of any such rules, and where any rules to that effect have been approved, to take the necessary steps to have such rules removed.

11. Further to your generous appeal that health care providers should enrol and pay themselves for training to support NAMAF's ultra vires actions is deemed to be an audacity and an affront. Since you impose on Namibian practitioners a South African coding list, for which you never held the license, you should know that when the SA government formally accepted the use the ICD-10 system in 2005 for all WHO related tasks and obligations, training to practitioners was offered free of charge. In fact, our research has shown that all countries that enforce ICD-10 coding have in some way compensated the providers for training and continued administration of the ICD-10 system. Kindly follow suit and pay for the training for those practitioners who heed your illegal demands and ensure that their continued administration of such system is properly compensated by the funds.

12. Lastly, we urge you to properly analyse the potential financial consequences of your ultra vires decision, for both the members and the funds. You wish to force an added service upon healthcare providers. This comes at a cost (although you prefer to ignore and deny this) which cost must be paid by someone, if not the fund, then the member. And in this the attractiveness for a member to belong to a medical aid fund is reduced even further.

We are looking forward to your esteemed response to clarify NAMAF's position.

Yours faithfully,

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