



FRAUD, WASTE & ABUSE WEBINAR



Eliminating fraud, waste and abuse in the Industry



FWA TRIBUNAL RULES

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16 November 2022
MS Teams

Tribunal Values

1. Accountability

- ▶ Complainants are entitled to a rational and fair reason for decisions and actions taken.

2. Independence

- ▶ In dealing with complaints, the Tribunal will operate independently of CMS.

3. Efficiency

- ▶ The Tribunal ensures that all complainant's complaints are resolved promptly and efficiently.

Tribunal Ethos

Amongst others, it requires:

- ▶ A high standard of professional ethics;
 - ▶ Efficient, economic and effective use of resources;
 - ▶ The provision of impartial, fair, and equitable service;
 - ▶ Transparency and accountability.
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- ▶ Tribunal motto is “*Ensuring Fairness*”.

 - ▶ Tribunal mission
The Tribunal is committed to being an efficient, independent, impartial and fair redress channel for medical schemes/service providers/members.

Why the Tribunal exists

Inspiring Industry Confidence.

- ▶ The Tribunal is here to listen to you, the complainant.
- ▶ The Tribunal is specifically established to be an independent and impartial channel for complainants who have been unable to resolve a service, procedural or administrative complaint through the normal complaints management channels.

Who does the Tribunal assist?

Complainants seeking redress

- ▶ As a redress channel for complainants, it strives to ensure that complainants receive the professional service and fair treatment that they are entitled.
- ▶ Before approaching the Tribunal, complainants should ensure that they have exhausted internal complaint resolution mechanisms unless there are compelling circumstances for not doing so.

The Complaints Process

Understand the steps involved in making and, where necessary, escalating a complaint.

1. Initial Step: Section 47, 48 and 50 of the Medical Schemes Act (131 of 1998)
2. Practical Implementation
3. The Process as required by the Rules

What are the systemic issues in the Industry?

- ▶ For the office of the Tribunal, a systemic issue can be regarded as the underlying cause of a complaint that affects or will affect many service providers/medical schemes in the health system.
- ▶ Systemic issues may have to do with the way specific medical or health systems function, how it drafts and implements policies, practices or procedures, or even how it applies or disregards legislative provisions.

Identifying serious systemic & emerging issues

- ▶ The Tribunal will inspect various factors when considering whether issues that service providers/medical schemes encounter are systemic.
- ▶ These factors are:
 - The impact on members rights;
 - The negative impact on MSA;
 - The seriousness of the issue; and
 - The number of members/service providers/medical schemes affected.

The Complaints Process

1. *You notice an issue or dispute problem.*

- ▶ Provide sufficient information for example, a phone number.
- ▶ You can make a complaint by email or in writing.

2. *Log the complaint with the Tribunal secretariat.*

- ▶ If it's a simple complaint, it might be resolved quicker.
- ▶ However, if it's a complex matter, make sure you log a formal dispute.
- ▶ Your provider will have their own complaints procedure, but you should start by explaining what the problem is and how you would like to be assisted.

The Complaints Process

3. *Supply evidence for your complaint.*

- ▶ The Tribunal recommends that you gather information including, time and date of calls and the details of what was said.
- ▶ You may need to refer to that information if you escalate the case to the Tribunal.
- ▶ If it's a complex matter, it's advisable to send a follow-up email or letter, so that you have record of all communication. This means there's no room for confusion.
- ▶ The Tribunal may ask for more information to help them understand and resolve the problem.

The Complaints Process

4. Allow the Tribunal enough time to investigate.

- ▶ This is to give the Tribunal enough time to assess the situation and the evidence to find an appropriate resolution.
- ▶ During that time, they could contact you for more information. You can also contact them for an update.
- ▶ The Tribunal might reach a decision on your complaint at any time prior to the eight weeks. If they do, they'll send you a 'confirmation letter'. This normally contains a final decision.

The Complaints Process

5. Escalating the complaint to the Tribunal.

- ▶ When you're ready to lodge your complaint, you will be asked to share details of your problem, evidence and some personal information, which the Tribunal will use to make an assessment.
- ▶ It's important to provide as much information as possible.
- ▶ When it comes to the evidence, provide the following:
 - Date you first noticed the issue and complained;
 - Any copies of correspondence or details of phone calls;
 - Dates, times and names of the members you spoke to; and
 - Any other evidence that demonstrates the issue.

The Complaints Process

6. *Supply evidence for your complaint.*

- ▶ When the Tribunal has processed your complaint, the complaint will be dealt with in terms of the Tribunal Rules.
- ▶ Avenue for mediation.
- ▶ If you are happy to accept, it can lead to an early resolution.

The Complaints Process

7. *There will be a full assessment of the situation.*

- ▶ If the complaint remains unresolved a full assessment of the case must be filled out.
- ▶ Decisions will be made, considering:
 - Both sides of the story;
 - Relevant regulation;
 - The law;
 - What is accepted as good industry practice.
- ▶ Disputes can take a long time, and some complex matters take longer than average cases.
- ▶ You can speed up the process by sharing evidence as soon as possible.

The Complaints Process

8. If you accept the resolution, the defendant has to comply.

- ▶ Your opponent is bound to the resolution if it is chosen.
- ▶ The Tribunal will obtain assistance from a specialist team to get the remedy implemented. [\[Enforcement Actions\]](#)
- ▶ If your opponent hasn't complied within a reasonable time, you are free to enforce the resolution in court as the decision is legally binding.

Common Questions

What does the Tribunal do?

- ▶ Resolve disputes between consumers, providers or medical schemes and related regulated entities.
- ▶ Makes independent and impartial decisions on complaints.
- ▶ SOP and policies will be in place to ensure that disputes are resolved as quickly as possible. This may be by facilitating a resolution between the parties, or by making a decision based on the information and evidence submitted. *[NEED FOR ADOPTION]*

Common Questions

How does the Tribunal review a complaint?

- ▶ The Tribunal may determine how a review is to be conducted, the Tribunal must review a complaint and if necessary, resolve it through mediation or conciliation.
- ▶ The Tribunal must also act independently and follow informal, fair and cost-effective procedures in resolving a complaint.

Common Questions

Can the Tribunal assist applicants or respondents?

- ▶ The Tribunal must be impartial. It must be understood that complainants are encouraged to provide as much information as possible, as this will help reach a fair decision timeously.

What types of complaints will the Tribunal handle?

- ▶ The Tribunal will review and resolve complaints such as: billing, customer service, payments/delays, switching providers, withholding of payments, loss of service.

Common Questions

How much does it cost?

- ▶ R2 800 will be payable for a referral and a monthly subscription (amount still for discussion).

How will the Tribunal be funded?

- ▶ The Tribunal will be funded by the providers signed up to the Tribunal.
- ▶ Complainants pay a fee for each case the Tribunal reviews. This fee is paid regardless of the outcome or decision made.
- ▶ This means that the more complaints resolved in-house, the less complainants have to pay to the Tribunal, which is an incentive to improve customer service.

Common Questions

Accountability of the Tribunal

Who regulates the Tribunal?

- ▶ Tribunal ought to be legislated to increase oversight and powers of remedial actions;
- ▶ It ought to be regulated through legislation or codes of good practice, who make sure it meets the required regulations;
- ▶ MSAB insertions to legislate the Tribunal;
- ▶ Regulations an option to bring life to the Tribunal; and
- ▶ Oversight by NDOH, CMS and Industry.

Common Questions

Where does the Tribunal accept complaints from?

- ▶ The Tribunal can process complaints for both consumer, providers and regulated entities;
- ▶ What qualifies it depends on which dispute its being referred to; and
- ▶ Section 59 matter and related disputes.

Common Questions

What is a rejection letter?

- ▶ If the Tribunal cannot assist with your complaint, you may receive a communication stating that the matter is outside the jurisdiction of the Tribunal.

What relief am I likely to get if I complain?

- ▶ Relief within the ambit of section 59 and relevant regulations of the Medical Schemes Act (Includes regulations)

Common Questions

Do I have to accept the decision of the Tribunal?

- ▶ The decision of the Tribunal can be appealed under the section 50 appeal.
- ▶ The Tribunal will always decide on a fair outcome.
- ▶ When you reject the final outcome, you may resolve your complaint by other methods, such as through the civil courts.

Common Questions

How do you make sure appellants/defendants and respondent's alike carry out our recommendations about service improvements?

- ▶ The Tribunal will work closely with the industry.
- ▶ Provide one-to-one support to help improve the way services are delivered, and how complaints are handled.

Frequently Asked Questions

What is a Tribunal?

- ▶ A Tribunal is an independent and impartial officer who deals with complaints against an organization or an agency.

What is the office of the Tribunal?

- ▶ The office of the Tribunal is the institution supporting the CMS in fulfilling the mandate.

What is the Tribunal's connection with CMS

- ▶ Its administration Office is independent and operates separately from CMS. A complainant can contact the office of the Tribunal directly or through a legal practitioner or another representative. Complainant's representatives must confirm their authority to act on behalf of their clients through a fully completed power of attorney.

Thank you

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