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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GOVERNMENT NOTICE

DEPARTMENT OF HEALTH

No. R. 681

23 JULY 2007

NATIONAL HEALTH ACT, 2003

REGULATIONS RELATING TO THE OBTAINMENT OF INFORMATION AND THE PROCESSES OF DETERMINATION AND PUBLICATION OF REFERENCE PRICE LIST

The Minister of Health has, in terms of section 90(1)(u) and (v) of the National Health Act, 2003 (Act No. 61 of 2003), made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations, “the Act” means the National Health Act, 2003 (Act No. 61 of 2003), and any word or expression to which a meaning has been assigned in that Act shall have that meaning and unless the context indicates otherwise,

“**billing rules**” means rules governing the use of reference price list items for billing purposes by providers;

“**CPIX**” means the consumer price index excluding interest rates on mortgage bonds for the historical metropolitan and other urban areas;

“**direct labour**” means the cost of labour that can be directly traced to the provision of the service represented by the particular reference price list item;

“**direct materials**” means materials used in providing the service or procedure represented by the reference price list item;

“**item**” means a single health service, procedure, consumable or disposable item to which a reference price applies;

“item code” means a code consisting of a maximum of six alpha-numeric digits that uniquely identifies a reference price list item within a particular reference price list schedule;

“item cost” means the cost of direct labour, direct materials and overhead costs;

“provider group” means a group of health establishments, health agencies, health care providers or health workers;

“reference price list” means a list of items and reference prices utilised by categories of health establishments, health agencies, health care providers or health workers, including rules for the use of the reference price list in billing for such health services, procedures, consumable and disposable items;

“reference price list schedule” means a subset of the reference price list items for use by one or more provider groups;

“representative sample” means a sample of health establishments, health agencies, health care providers or health workers that will result in a statistically significant result at the 95% confidence limit.

Invitation for submissions

2. (1) The Director-General shall, annually by notice in the Gazette, require from any stakeholder contemplated in section 90(1)(v) of the Act, the submission of certain information:
 - (a) relating to health financing, the pricing of health services, business practices within or involving health establishments, health agencies, health workers or health care providers; and
 - (b) as is necessary for the development and publication of the reference price list.
- (2) The Director-General may hear representations from or enter into correspondence with an interested party in order to further evaluate the information submitted in response to a notice contemplated in sub-regulation (1).

Information that may be submitted

3. (1) The information referred to in regulation 2 may include, but not limited to-
- (a) activity times for health services rendered within a health establishment, including surgical and medical procedures, which means the time required to complete the actual procedure or service;
 - (b) overhead costs, i.e the costs incurred in rendering a set of items included in a reference price list schedule;
 - (c) labour costs, i.e the cost of labour that can be traced to the provision of an reference price list item;
 - (d) professional fees;
 - (e) cost of medicines, scheduled substances and medical devices;
 - (f) cost of maintenance of premises;
 - (g) cost of consumables used in delivery of health services;
 - (h) security costs;
 - (i) cost of foodstuffs for patients;
 - (j) cost of services or products used to ensure patient safety;
 - (k) cost of insurance related to the provision of health services;
 - (l) details of persons or institutions providing services to or at the establishment;

- (m) scales of benefits payable by medical schemes to the health establishment;
 - (n) occupancy rate, which is the utilised capacity of a facility or equipment divided by the available capacity during the period under consideration;
 - (o) non-confidential information on the health establishment;
 - (p) income and expenditure;
 - (q) billing guidelines and rules, where these exist;
 - (r) waste management costs;
 - (s) details of agreements with third parties; or
 - (t) any other costs that are ordinarily incurred.
- (2) The information must-
- (a) be in accordance with the pricing methodology contemplated in regulation 4(2)(a);
 - (b) indicate cost parameters that are different in respect of different provider groups;
 - (c) be comprehensive and provide for item codes and item type, where applicable;
 - (d) provide for representative samples and how the sample sizes used have been calculated; and
 - (e) include explanations for adjustments or assumptions made in cost evaluations.

Guidelines for submission of information

4. (1) The submission of information referred to in regulation 3 must be in accordance with the guidelines as determined by the Director-General in the notice contemplated in regulation 2.
- (2) The guidelines referred to in subregulation (1) shall include, but not limited to:
- (a) pricing methodology, for the determination of reference prices for items;
 - (b) procedures for addition, deletion or change of items; and
 - (c) calculation of responsibility values. Responsibility value means the increased responsibility for providing a service relative to a standard service for providers and is calculated by taking into account experience and knowledge, judgement and mental effort, skill and physical effort as well as risk and stress to the patient.

Verification of information

5. (1) A person making the submission must warrant that the information submitted is to the best of his or her knowledge, correct and accurate.
- (2) The Director-General may:
- (a) request supporting documentation, where necessary, for verification purposes;
 - (b) refer, for advice, information submitted in terms of these regulations to an advisory committee appointed by the Minister in terms of section 91(1) of the Act; or

- (c) take such other steps as may be necessary to determine the reference price list.

Commissioning of costing surveys

6. In an instance where a consultant is commissioned by a stakeholder contemplated in regulation 2(1) to undertake a costing survey for the purpose of submitting information, such consultant must be independent of the person commissioning the work. The consultant must be free from any interest and any business or other relationship which could, or could reasonably be perceived to, materially interfere with the consultant's ability to objectively evaluate the costs.

Determination of the Reference Price Lists

7. (1) The Director-General shall, after verification of information as contemplated in regulation 3, prepare a draft reference price list.

(2) In determining an reference price list, the Director-General shall take the following into account:

- (a) the advice of a committee contemplated in regulation 5(2)(b);
- (b) the need for private health establishments and health agencies to have a return on investment;
- (c) the need for health care providers to earn an income;
- (d) the need for certainty, sustainability, affordability and stability within the medical schemes environment and among private sector consumers;
- (e) the need to improve and maintain efficiency and quality in the delivery of health care services as well as to increase

and ensure access to such services for medical scheme beneficiaries;

- (f) the need to eliminate perverse incentives, unethical business practices and unprofessional conduct from the health care industry;
- (g) relevant information already in possession of the Department submitted in terms of any law;
- (h) the need to promote competition within the private health care industry; or
- (i) the need to promote and ensure access to membership of medical schemes for employed persons and their dependants.

Publication of the Reference Price List


- 8.** (1) Having determined the draft reference price list, the Director-General shall publish it in the Gazette for at least four weeks for public comments.
- (2) The Director-General shall, after considering comments, if any, prepare the final reference price list and publish it in the Gazette before the end of September of the preceding year.
- (3) The reference price list is a public document, to be freely used by any interested person and to which no person shall claim intellectual property of any form.

Failure to make submissions

9. Where information is not submitted despite an invitation by the Director-General or where information is submitted after the deadline set in the notice contemplated in regulation 2 and the Director-General is as a result thereof unable to prepare a reference price list as contemplated in regulation 8(2), the Director-General shall make a determination on the reference price list taking into account the CPIX.

2008 Reference Price List

10. In determining the reference price list for the year 2008, the Director-General shall take into account the reference price lists previously determined by the Council for Medical Schemes in terms of section 7 of the Medical Schemes Act, 1998 (Act No. 131 of 1998).

**ME TSHABALALA-MSIMANG****MINISTER OF HEALTH**