

Proposed amendments to the Compensation for Occupational Injuries (COID) Act

Last year the Parliamentary Portfolio Committee on Employment and Labour tabled proposed amendments to the Compensation for Occupational Injuries and Diseases (COID) Act of 1993. The proposed amendments are contained in the COID Amendment Bill [B21-2020], the full text of which can be viewed on Parliament's website at <https://www.parliament.gov.za/bill/2292817>.

The South African Medical Association (SAMA) has specific concerns about Clause 43 of the Amendment Bill (that seeks to amend Section 73 of the Act) which reads:

"Amendment of section 73 of Act 130 of 1993

43. Section 73 of the principal Act is hereby amended by the addition of the following subsections:

“(3) Notwithstanding the provision of subsection (2) the medical practitioner may after the claim has been finalised or the period referred to in subsection (1) has lapsed, apply for reopening of the claim and payment of further medical costs.

(4) Any provision of any agreement existing at the commencement of this Act or concluded thereafter in terms of which a service provider cedes or purports to cede or relinquishes or purports to relinquish any rights to medical claim in terms of this Act, shall be void.’

In a media release in February (<https://www.samedical.org/cmsuploader/viewArticle/1572>), SAMA noted that it is opposing the amendment on the grounds that it will place “excruciating administrative, financial and legal pressure on the healthcare sector and disadvantage injured workers, and their right to quality medical care.”

The proposed Bill prohibits the cession of medical invoices by medical service providers to any third-party administrators.

Currently, medical practitioners cede their COID claims to Claims Administrators and Service Providers who then perform the necessary administration and recover owed monies. In cases where legal action is taken against the Compensation Fund, Claims Administrators institute these actions and are successful in almost all of their cases.

In our view the COID system is already immensely dysfunctional with the new CompEasy system being particularly bad in that claims are either not paid, or take a long time to be processed and paid. This has led to a situation where private practitioners refuse to see COIDA cases because of the disastrous state of the Compensation Fund's administration and IT functions, which go hand-in-hand with the very high likelihood of severe payment delays (if payments are made at all). There is also anecdotal evidence that payment to patients is equally dire – up to four years in some instances.

We further foresee a situation where – if the amendment is passed – that many private trauma centres will also refuse to see COID patients and they will then be sent to provincial facilities where there are serious constraints on capacity. Those disabled by their injury will be more seriously disabled due to the lack of continuity of care and assistive devices, thereby placing this vulnerable group in an even more invidious position.

While we are pleased that the proposed amendments to the COID Act will make it possible for domestic workers to access COID, should Clause 43 remain – prohibiting cessation of claims by medical practitioners – its inclusion will negate the progressive impact the Amendment Bill endeavors to accomplish.

This proposal – if approved – will have major negative consequences for medical practitioners and injured workers. Medical practitioners won't have the time to lodge claims themselves, or contest the Compensation

Fund, and claims will be voided. In addition, owed debt cannot be used as security for overdraft purposes which may lead to liquidity issues for medical practitioners.

For injured workers this proposal will mean they will not get access to services and benefits. It is, we believe, a proposal which will impact unfavourably on all concerned. Ultimately, if passed, the amendments will result in even less doctors being prepared to see these patients thereby further increasing unacceptable delays and inadequate medical coverage for vulnerable people.

It must be noted that several other organisations are in agreement with SAMA's position on the matter. The Injured Workers Action Group (IWAG), and the United Domestic Workers of South Africa (UDWOSA) union are two other groups who support our view. In the past weeks there has been significant media coverage on this topic. A sample of this coverage can be accessed at:

- <https://www.news24.com/fin24/economy/labour/compensation-bills-changes-spell-disaster-for-healthcare-industry-groups-warn-20210128>
- <https://www.iol.co.za/mercury/news/calls-to-scrap-proposed-amendments-to-workmens-compensation-legislation-19eff596-e7ad-4212-a5a3-decba24890b3>
- <https://www.netwerk24.com/Sake/Muntslim/Mediese-Fondse/dokters-bekommerd-oor-hoe-die-wysigings-hul-sak-raak-20210129>
- http://pdf.novusgroup.co.za/assets/pdf/NOVUS_Business_Day_Late_Final_2021-02-02_NTM3ODk5MTEa_2073bNZUM.pdf
- http://pdf.novusgroup.co.za/assets/pdf/NOVUS_Business_Day_2021-02-04_NTM3OTM4ODIa_2073IMCaM.pdf
- http://pdf.novusgroup.co.za/assets/pdf/NOVUS_Cape_Times_2021-02-05_NTM3OTgxNjka_2073bLph-.pdf

Going forward, SAMA will prepare a formal objection to Section 73 of the COIDA Amendment Bill, **part of which will include an insistence that the justification for the amendment be provided as transparently as possible.**

However, to ensure our submission is thorough, thoughtful, and accurate, we require your inputs. To this end we are appealing to you to complete the questionnaire to this brief summary at <https://forms.gle/DDUMFLW9KxTpAZMg7> to enable us to reflect your views on this important development. Please take the time to review the above, and to give us your thoughts and inputs.

Let your voice be heard.

Regards

SAMA