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Welcome to this edition of HFA Matters.

The healthcare policy and regulatory environment continues to evolve rapidly, creating both challenges and opportunities for healthcare funders, providers, policymakers and patients. This month, we reflect on several important developments shaping the future of healthcare in South Africa, from healthcare pricing reform and Constitutional Court matters to rare diseases, digital innovation and HFA's strategic priorities.

Throughout these discussions, a common theme emerges: meaningful and sustainable healthcare reform requires evidence-based policy, constructive engagement and a shared commitment to improving affordability, access and quality of care. We hope you enjoy this month's edition.

PRICING IN PRIVATE HEALTHCARE: NEXT STEPS



Dr Anban Pillay at the CMS Indaba

One of the more thought-provoking presentations at the recent CMS Industry Indaba was delivered by Dr Anban Pillay, Deputy Director-General of Health, who reflected on the complex history of healthcare price setting in South Africa and shared perspectives on international approaches to tariff determination and strategic purchasing.

A central theme of the presentation was a challenge facing health systems globally:

healthcare costs continue to rise faster than inflation, placing increasing pressure on affordability and sustainability. Unlike most sectors, healthcare does not operate according to conventional market principles. Patients often lack the information, time or ability to shop around, while healthcare services are frequently essential rather than discretionary. Determining what constitutes a "fair price" is therefore inherently complex.

International examples from the United Kingdom, Japan, the Republic of Korea and Thailand illustrated how many countries have established formal institutions and processes for healthcare price regulation. These systems are typically supported by robust cost and utilisation data, strong technical expertise, and structured negotiation mechanisms involving government, funders, providers, labour and civil society.

A common feature across these models is the separation of technical costing from tariff negotiations. Detailed cost information is collected and analysed independently before negotiations take place between funders and providers. Many countries also publish pricing and quality information to promote transparency and accountability.

The presentation also revisited South Africa's own tariff-setting journey. Following the Competition Commission's 2004 ruling against centrally determined tariffs, the sector has operated without a coordinated pricing mechanism. Subsequent initiatives, including the National Health Reference Price List (NHRPL) and later the Reference Price List (RPL), faced legal and practical challenges and ultimately failed to achieve broad stakeholder consensus.

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Dr Pillay highlighted the recommendations of the Health Market Inquiry (HMI), particularly the proposal for a supply-side regulator and a multilateral negotiating forum to establish tariff benchmarks. As an interim measure, the Minister is reportedly considering regulations under section 90(1) of the National Health Act to establish a Negotiating Forum on tariffs.

Under this model, stakeholders would negotiate fee-for-service tariffs through a CMS-facilitated process supported by shared costing data. Agreed guideline tariffs would be published but remain non-binding, allowing bilateral negotiations to continue outside the process. Disputes would be referred to arbitration. The discussion extended beyond tariffs to the broader concept of strategic purchasing. Rather than reimbursing healthcare services passively, strategic purchasing seeks to use evidence, outcomes and population health needs to determine what services should be funded, who should provide them and how providers should be reimbursed. Examples included pay-for-performance models, where reimbursement is linked to

measurable outcomes rather than service volumes alone.

In this context, South Africa's experience with antiretroviral procurement was highlighted as an example of strategic purchasing in practice, where reference pricing and negotiation have significantly reduced medicine costs over time. Encouragingly, the potential use of alternative reimbursement models for high-cost medicines was also discussed as an option for the future.

The presentation provided useful insight into government's current thinking on healthcare pricing and reimbursement reform. While these issues remain complex and often contested, there appears to be growing recognition that sustainable pricing mechanisms will require robust data, transparent processes, meaningful stakeholder engagement and a greater focus on value and outcomes. HFA will continue engaging closely on these developments, keeping members informed and seeking opportunities to unlock value through forthcoming reforms.

SHAPING THE FUTURE: HFA'S STRATEGIC PRIORITIES

HFA recently held its strategic planning session to reflect on the rapidly evolving healthcare environment and refine the Association's priorities and role within South Africa's changing health system. The discussions reaffirmed HFA's commitment to five strategic pillars:

1. Affordability and Policy Advocacy

Ensuring affordable and sustainable healthcare remains HFA's core priority. Key focus areas include PMB reform, pricing and tariff reform, value-based care, health technology assessment, high-cost treatments, primary healthcare options, FWAE, and broader healthcare policy reform. HFA will continue engaging on key regulatory developments, including NHI and the Medical Schemes Act, while advocating for clearer PMB definitions, more consistent interpretation, and sustainable reimbursement models that balance access, quality and affordability.

2. Coalition Building

HFA will continue strengthening relationships across the healthcare sector, including with government, regulators, providers, industry bodies and civil society. Constructive engagement and consensus-building remain critical to advancing meaningful healthcare reform.

3. Member Value

Supporting members remains central to HFA's mandate. This includes providing guidance on operational, regulatory and policy matters, promoting best practice in governance, compliance and benefit design, and ensuring members' interests are effectively represented.

4. Brand Building

HFA will continue positioning itself as a trusted and credible voice in healthcare through thought leadership, stakeholder engagement, media participation and evidence-based advocacy. The focus remains on advancing practical solutions that improve affordability, sustainability and access to care.

5. Organisational Strength and Sustainability

HFA remains committed to building a resilient, effective and sustainable organisation that continues to deliver value to members and support positive healthcare reform.

Overall, the session reflected cautious optimism that, despite the significant challenges facing the sector, there remains considerable opportunity for constructive reform. HFA's focus will remain on advancing practical, evidence-based solutions that support affordable, sustainable and high-quality healthcare for South Africans.

HFA TRUSTEE TRAINING SERIES

HFA is pleased to announce that its Trustee Training Programme is now available on the HFA website through a series of online lecture recordings, allowing trustees and other professionals within the medical schemes industry to learn at their own pace and at a time that suits their schedules.

The programme has been developed in conjunction with Irene Zambelis, an experienced trainer within the healthcare environment, and is intended to provide trustees with practical, industry-specific knowledge across a range of important governance and operational areas within medical schemes.

Current modules cover:

- ◇ *An introduction to the medical schemes environment and governance structures*
- ◇ *Financial soundness, sustainability and regulatory oversight*
- ◇ *Prescribed Minimum Benefits (PMBs) and their operational complexities*
- ◇ *Managed care, value-based healthcare and risk management*
- ◇ *The legal, ethical and governance responsibilities of trustees*

Upcoming lecture recordings will also explore topics such as benefit design, NHI and fraud, waste, abuse and errors (FWAE).

The training forms part of HFA's ongoing commitment to strengthening governance, technical understanding and leadership within the medical schemes environment, while supporting trustees in carrying out their fiduciary responsibilities effectively and confidently.

Please click [here](#) for more.

THE SIGNIFICANCE OF THE CON JUDGEMENT

The recent Constitutional Court judgment declaring the Certificate of Need (CON) provisions unconstitutional is one of the most significant healthcare rulings in recent years and could have important implications for future healthcare regulation and National Health Insurance (NHI) implementation in South Africa.

In a unanimous judgment handed down on 18 May 2026, the Court struck down sections 36 to 40 of the National Health Act, which would have required healthcare practitioners, facilities and agencies to obtain a Certificate of Need from the Director-General of Health in order to establish, expand or continue operating healthcare services.

While government argued that the CON framework was intended to promote equitable access to healthcare and address historical inequalities in the distribution of services, the Court found that the legislation failed to meet the constitutional requirement of rationality. It held that there was no rational connection between the extensive powers created by the framework and the objectives it sought to achieve.

A central concern was the broad discretionary powers granted to the Minister of Health and the Director-General, with many key aspects of the system left to future regulations rather than being clearly defined in legislation. The Court also found that the framework unjustifiably limited

the constitutional right to freely choose one's trade, occupation or profession.

Beyond its immediate impact on healthcare practitioners and facilities, the judgment may have broader implications for healthcare reform. During the proceedings, government itself described the CON framework as "central pillar" for supporting the equitable distribution of healthcare services within the NHI framework. The judgment may therefore prompt renewed consideration of how healthcare planning and service distribution will be achieved within the broader reform agenda.

More broadly, the ruling provides valuable insight into how the Constitutional Court may approach future challenges involving broad discretionary powers, rationality, procedural fairness and the limits of administrative authority. These principles are likely to remain highly relevant as various legal challenges relating to the NHI continue through the courts.

The judgment serves as an important reminder that while healthcare reform and efforts to address inequity are legitimate and necessary objectives, they must be pursued in a manner that is consistent with constitutional principles, including legality, rationality, fairness and the protection of fundamental rights.

FWAE: SECTION 59 INVESTIGATION PANEL REPORT

HFA is encouraged that recent engagements and public discussions around the Section 59 Investigation Panel Report appear to reflect a more balanced and accurate interpretation of the Panel's findings. In particular, there has been a welcome shift away from suggestions that medical schemes were found guilty of racial profiling or unlawful discrimination.

This is significant because the independent panel, established by the Minister of Health and the Council for Medical Schemes (CMS) and chaired by Advocate Tembeka Ngcukaitobi, conducted an extensive four-year investigation into allegations relating to Section 59 and forensic investigations undertaken by medical schemes. The Panel's final report, published in July 2025, did not make findings of racial profiling, explicit racial bias or unlawful unfair discrimination. Similarly, the Panel did not identify instances where healthcare practitioners were investigated without cause or where schemes acted unlawfully in recovering funds.

For purposes of clarity, the interim report published in 2021, stated that "**We do not find evidence of explicit racial bias in the algorithms (to the extent that the workings of the algorithms were disclosed) and methods that the administrators and schemes use to identify FWA**". (Paragraph 708). Its final report, published in July 2025, is clear, whereby the Panel stated, "**We decided not to make legal findings about unfair discrimination in terms of section 9 of the Constitution or the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 for the historic period.**" (Paragraph 313).

The Panel's use of the words "**do not**" and "**decided not to**" is significant. These are clear and definitive negative findings by the Panel in relation to the allegations before it i.e. the reports did not make findings of explicit racial bias, racial profiling, or unlawful unfair discrimination.

At the same time, the Panel recognised that forensic investigations can be experienced as invasive and distressing

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by healthcare practitioners and recommended measures to strengthen fairness, transparency, consistency and procedural safeguards. HFA has consistently supported this balanced approach, namely that investigations must be conducted fairly and respectfully while remaining effective in protecting member funds from fraud, waste, abuse and errors (FWAE).

Following the publication of CMS Circular 10 of 2026 and subsequent discussions regarding restitution and adjudication mechanisms, HFA became concerned that aspects of the public and regulatory narrative were not fully aligned with the findings and limitations of the Panel's report. In response, HFA engaged extensively with CMS, the Minister of Health and other stakeholders, requesting that future communications accurately reflect the contents of the report.

Importantly, HFA has also focused on practical solutions.

NHI PUBLIC PARTICIPATION CHALLENGE AT THE CONCOURT

Earlier this month, the Constitutional Court heard arguments in what may become one of the most significant legal cases affecting South Africa's healthcare reform agenda. The Court considered challenges brought by the Board of Healthcare Funders (BHF) and the Western Cape Provincial Government regarding the parliamentary process followed in passing the National Health Insurance (NHI) Act.

Importantly, the cases did not address whether universal health coverage is a desirable objective. Rather, the central question was whether Parliament fulfilled its constitutional obligation to facilitate meaningful public participation during the legislative process.

The BHF argued that Parliament, lawmakers and the public were not provided with sufficient information regarding the practical implications, implementation mechanisms and costs of the NHI to enable meaningful participation. Particular emphasis was placed on affordability and sustainability, with the argument that legislation of this scale could not be properly assessed without credible information on how it would be funded and implemented.

Parliament defended the process, highlighting the extensive public participation undertaken, including more than 330,000 submissions and hearings conducted across all provinces. It argued that the Constitution requires a reasonable opportunity for participation, not that public views must ultimately prevail.

The Western Cape's challenge focused on the role of the National Council of Provinces (NCOP), arguing that aspects of the provincial consultation process were rushed and that certain provincial submissions were not adequately considered.

Separate judgments are expected in the BHF and Western Cape matters, although a decision may only be delivered in several months' time. The hearings highlighted the

This includes developing a proposed Code of Good Practice, aligned to the Panel's recommendations, which has been submitted to CMS. The framework seeks to promote fairness, consistency and appropriate procedural safeguards, while preserving the ability of schemes to act where there is prima facie evidence of fraud, waste or abuse.

FWAE remains a significant threat to healthcare affordability and sustainability. Medical schemes therefore have both a legal and ethical responsibility to investigate irregular claims and recover funds where appropriate. Alongside its regulatory engagements, HFA continues to participate in dialogue with healthcare professional groups, including engagements facilitated with SAMA, to build trust, improve communication and promote a shared understanding of fair investigative practices and responsible stewardship of healthcare resources.

importance of constitutional process, procedural fairness and public participation in major policy reforms.

As members will recall, implementation of the NHI Act remains paused following the February 2026 court order in which the President and Minister of Health undertook not to implement any provisions of the Act pending the outcome of these proceedings.

Should the Court find that Parliament failed to facilitate meaningful public participation, all or part of the legislation could be referred back to Parliament for reconsideration. If the process is found to be constitutionally compliant, broader substantive challenges to the NHI Act are likely to proceed through subsequent litigation.

Regardless of the outcome, the matter represents an important milestone in South Africa's healthcare reform journey and is likely to shape both the future of the NHI and the constitutional framework within which major healthcare reforms are developed and implemented.



BUILDING THE HEALTH SYSTEM WE DESERVE: CONVERSATIONS THAT MATTER

HFA's podcast series, *Building the Health System We Deserve*, continues to provide a platform for thoughtful, solutions-focused discussions on the future of healthcare in South Africa.

Now six episodes into the series, the podcast has brought together a diverse range of voices from across the healthcare landscape:

Episode 1: The series launched with healthcare activist Mark Heywood, who spoke about healthcare equity, access to medicines, leadership and the importance of rebuilding trust between stakeholders.



Episode 2 featured Dr Boshoff Steenekamp, who reflected on universal health coverage, affordability and the need for practical healthcare reform solutions.



In Episode 3, Dr Mzulungile Theo Nodikida, CEO of the South African Medical Association, shared insights from healthcare systems in Cuba, China and South Africa, while highlighting the importance of prevention, primary healthcare and collaboration across the sector.



Episode 4 featured Ronald Abvajee, CEO of Healthy Living Consulting whose discussion explored workplace wellness, behavioural change and the growing role of technology, wearables and AI in improving health outcomes.



In Episode 5, Teddy Mosomothane, CEO and Principal Officer of Bankmed, offered a thoughtful perspective on the ongoing challenge of balancing affordability, sustainability and member value within medical schemes.



Most recently, Episode 6 welcomed Kelly du Plessis, CEO and Founder of Rare Diseases South Africa, who shared both professional insight and personal experience navigating the rare disease landscape and the urgent need for a more compassionate and responsive healthcare system.



While perspectives have differed, a common theme has emerged throughout the series: meaningful healthcare reform will require collaboration, constructive engagement and a shared commitment to improving access, affordability and quality of care. The discussions have also reinforced the importance of bringing together diverse viewpoints to better understand the challenges facing South Africa's health system and identify practical solutions for the future.

We extend our sincere thanks to all our guests for sharing their expertise, experiences and insights. We look forward to continuing these important conversations in the months ahead.

All episodes of *Building the Health System We Deserve* are available on [HFA's YouTube channel](#).

RARE DISEASES ACCESS INITIATIVE

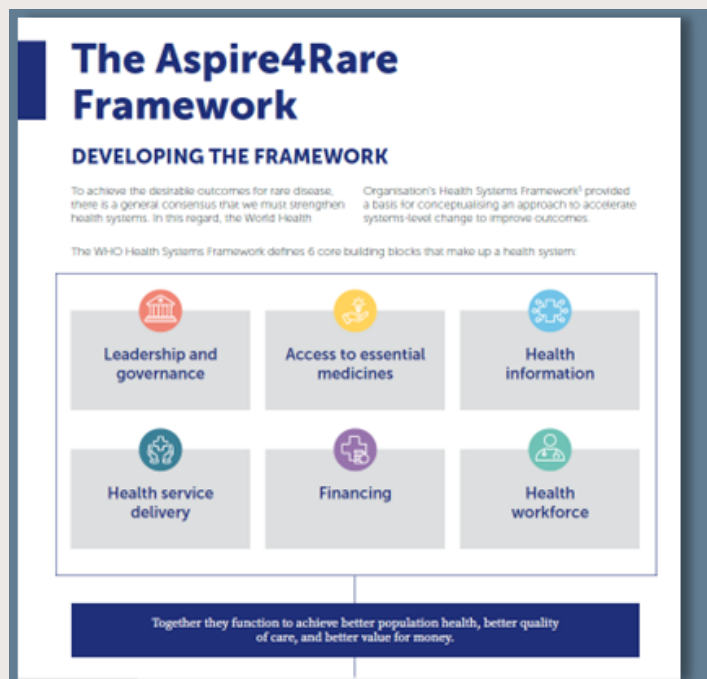
Nearly 300 million people worldwide live with a rare disease, including an estimated 4.2 million South Africans. Yet, according to Kelly du Plessis, CEO and Founder of Rare Diseases South Africa, fewer than 1% of those affected in South Africa are able to access treatment.

At a recent Rare Diseases Access Initiative (RDAI) meeting, stakeholders were introduced to a framework developed by Aspire4Rare aimed at strengthening health systems and improving outcomes for people living with rare diseases.

Despite significant advances in research, genomics and rare disease policy, major challenges remain, including delayed diagnosis, limited access to treatment and support services, and persistent inequalities in healthcare access. A key message emerging from the framework is that rare diseases should not be viewed as a niche healthcare issue, but rather integrated into broader health policy, planning and funding discussions.

The framework places strong emphasis on patient involvement, data and genomics, international collaboration and sustainable financing models. Importantly, it focuses on practical implementation and measurable outcomes, recognising that policies are only meaningful if they result in tangible improvements in diagnosis, treatment access, coordinated care and quality of life.

Encouragingly, RDAI will be convening a stakeholder workshop to explore how elements of the framework can be adapted within the South African context. HFA will continue to engage in these discussions and keep members informed of further developments.



SAMA CONFERENCE: ELEVATE TO INNOVATE



SAMA recently hosted its Health Summit in Durban under the theme "Innovate to Elevate: Transforming Healthcare Together". The event brought together healthcare leaders, clinicians, researchers and technology experts to explore the future of healthcare in South Africa.

The programme focused on innovation, collaboration, AI and digital health, while also examining important issues relating to access, ethics, equity and sustainability within the healthcare system.

One of the most striking observations was the pace at which AI is being integrated into healthcare. From autonomous robotic surgery and clinical decision support tools to predictive analytics and population health management, AI is increasingly becoming part of healthcare delivery across the world.

While technology is unlikely to replace healthcare professionals anytime soon, those who embrace and apply AI responsibly will be best positioned to improve patient outcomes, expand access to care and help shape the future of healthcare.

HFA congratulates SAMA on hosting a highly successful and thought-provoking summit. We look forward to continuing our collaboration with SAMA and other stakeholders as we explore how the conference's key insights and recommendations can be translated into practical actions that strengthen South Africa's healthcare system.

CLOSING REFLECTION...

As always, thank you for your continued support and engagement. The healthcare environment remains dynamic and challenging, but there are encouraging signs that meaningful reform is possible when stakeholders work together in pursuit of practical, evidence-based solutions. HFA remains committed to ensuring that the voice of medical schemes continues to contribute constructively to building the health system we deserve.