

**Complaint EVE DMOCHOWSKA,  
(MEDICAL AID BIBLE.CO.ZA) against  
COMMED MEDICAL SCHEME**

**7 April 2017**

**1. Details of complainant:**

- 1.1. My name is Eve Dmochowska, and I lodge this complaint in public interest, and in my capacity as the founder of The Medical Aid Bible ([www.medicalaidbible.co.za](http://www.medicalaidbible.co.za)), which is a website that helps South Africans compare medical aids and choose the best one for their needs.
  
- 1.2. In the course of running and maintaining the website, I have had the opportunity to converse with medical aid members who feel that they are being overcharged in their Late Joiner Penalty. Members approach us to discuss this because we have very informative articles about the penalty on our website. During the course of such discussions, it has in various instances become obvious that the member was indeed being overcharged. The blame has often been put on scheme's or brokers wrong advice.
  
- 1.3. This led me to investigate how schemes represent the late joiner penalty to their potential and existing members.
  
- 1.4. I thus came across various irregularities in how Commed Medical Scheme represents the Late Joiner Penalty. I have attempted to discuss similar issues with the Council of Medical Schemes, but have been unsuccessful in obtaining an appointment with the relevant parties, despite numerous requests. I therefore turn my efforts to a written complaint.

**2. Summary of complaint**

- 2.1. Commed is misrepresenting on its marketing brochures how late joiner fees are calculated. This might have a number of adverse effects for anyone who is over the age of 35, and who is considering joining the scheme, or who has already joined the scheme.

### 3. Late Joiner Penalty

3.1. The Late Joiner Penalty (“LJP”) is defined in the Medical Schemes Act in paragraph 13, and is calculated according the formula as follows (paragraphs 13.2 and 13.3, my emphasis):

<i>Penalty Bands</i>	<i>Maximum penalty</i>
<i>1 – 4 years</i>	<i>0.05 x contribution</i>
<i>5 – 14 years</i>	<i>0.25 x contribution</i>
<i>15 – 24 years</i>	<i>0.5 x contribution</i>
<i>25 + years</i>	<i>0.75 x contribution</i>

*To determine the applicable penalty band to be applied to a late joiner in terms of the first column of the table in subregulation (2), the following formula shall be applied:*

$$**A = B minus (35 + C)**$$

*where:*

*“A” means the number of years referred to in the first column of the table in subregulation (2), for purposes of determining the appropriate penalty band;*

*“B” means the age of the late joiner at the time of his or her application for membership or admission as a dependant; and*

*“C” means the number of years of creditable coverage which can be demonstrated by the late joiner.*

3.2. In plainer English, the formula can be explained to a potential member as follows:

- 3.2.1. Add up all the years you have had credible medical aid coverage (C), and add 35 years to that number (C+35)
- 3.2.2. Subtract that number from your age at the time of application to the scheme (B) - (C+35)
- 3.2.3. If the result is negative or 0, you pay no penalty
- 3.2.4. If the result is 1 or higher, you pay a penalty as per the above table
- 3.3. The correct interpretation of this formula includes acknowledging the fact that:
  - 3.3.1. Only people over the age of 36 might need to pay the LJP. Any younger person will have a “negative” result as per paragraph 4.2.3 and will not be liable to pay a penalty
  - 3.3.2. *All* credible medical aid membership, **even membership prior to the age of 35** needs to be considered when working out “C” in the above formula. This is very clear from the wording of the Act.
- 3.4. It therefore follows that a person who was a member of a medical scheme from the age of 21 years to 34 years (total 13 years) and is now 44 years old will not have to pay a LJP:
  - 3.5.  $A = 44 - (35+13) = -4$
- 3.6. In addition, no person who has been a member of a medical aid prior to April 2001 without a break in coverage exceeding 90 days will pay a LJP.

#### 4. Commed’s approach to LJP

- 4.1. Commed conveys a different interpretation of the LJP in its benefit brochures.
- 4.2. Specifically, in the 2017 brochures Commed says “*Premium penalties will be applied in respect of persons over the age of 35 years, who were without medical scheme cover for the period indicated hereunder **after the age of 35 years** as follows...*” (Annexure A, my emphasis)
- 4.3. Using Commed’s interpretation of the LJP, and combining it with the example in paragraph 3.4, Commed would apply a 25% penalty to that member

$A = 44 - (35+0) = 9 = 25\%$  penalty as it would not recognise any medical scheme membership prior to age 35.

- 4.4. If such a penalty was incorrectly applied, and if the person was a member of Commed's entry level plan (Roots) then the person is overpaying by R205.50 per month, and R2,466 per year. Over a 20 year membership, the person would be overpaying by R49,320, excluding escalations in premiums.
- 4.5. Equally, if the person was a member of Deluxe option, then the person is overpaying by approximately R1,233 per month, and R295,920 over 20 years, excluding escalations in premiums.. Although these are of course random, made up examples, I think the gravity of the situation is clear.
- 4.6. In addition, in the options where the monthly contribution includes a savings portion, Commed fails to inform the applicant that the LJP is only applied to the base contribution, not the savings contribution.

## 5. Consequences

- 5.1. If Commed is applying the LJP incorrectly, then some of the consequences are obvious:
  - 5.1.1. Members are being overcharged
  - 5.1.2. Members are probably on less-than-ideal plan, because they believe they cannot afford the plan they want to be on
- 5.2. I need to state categorically that I have no evidence that Commed is actually maliciously overcharging members, only that it is telling them that it *intends* to do so. It is possible that Commed is merely mis-representing the LJP on their application forms, but not applying the wrong interpretation once application is actually made. If this is indeed the case, then it raises a very serious question: why is Commed misrepresenting the facts if it knows how the LJP should be applied? There are serious consequences to this misrepresentation:

- 5.2.1. Unfortunately, members who incorrectly believe they should pay a LJP **might not sign up for a medical aid plan at all**, based purely on the affordability factor. Their decision might extend to other schemes too, regardless of how those schemes represent the LJP, since the members might presume that all schemes will charge them the LJP based on the same penalty bands and rules that Commed presented.
- 5.2.2. This then has a filtering effect for Commed, and the industry as a whole. The scheme is dissuading older people from applying for medical aid membership by making them believe that they will be paying high late joiner penalties, when in fact that might not be the case. This “filtering” lowers the Scheme’s risk to high claims costs that are prevalent in older members.
- 5.2.3. By misrepresenting the LJP Commed might effectively be locking potential members out of the medical aid market **and** increasing their LJP should they ever join. therefore increasing their actual LJP should they ever join in the future. After all, for each year that these members are not part of a medical aid scheme (due, for example, to misinformation obtained from Commed) their actual, **genuine** penalty band count does in fact increase! It is possible that a member who was not liable for a LJP five years ago but was misled by Commed into believing that he would have to pay 25% penalty (see example above), might in fact now attract a **genuine** penalty!

## 6. Remedy sought

- 6.1.1. Commed must correct the LJP information on their application forms and any other applicable content
- 6.1.2. Commed must inform *all* existing members about the correct method to calculate late joiner penalties. This is so that all the members have the correct information, and do not spread any misinformation among their friends and family.

- 6.1.3. Commed must allow all its members who are paying a late joiner penalty the opportunity to provide evidence of past coverage, or an affidavit to that effect, and must credit late joiner fees where it is shown that members were previously overcharged due to the fact that they did not provide proof of any credible coverage prior to age 35.
- 6.1.4. Commed must communicate with their Brokers about their error, and must ensure that all brokers understand how the LJP is calculated. In addition, Commed must assure all brokers that any overcharges of their clients due to Commed's error will be credited to the members.
- 6.1.5. Any other remedy seen fit by the Registrar or Council of Medical Schemes