



## PRESS RELEASE

Reference : You cannot enrich yourself unjustly  
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### **Press release 4 of 2012: You cannot enrich yourself unjustly**

If you are involved in a road accident, you can claim compensation from the Road Accident Fund (RAF).

If you are a member of a medical scheme and involved in a road accident, your scheme has to pay for your treatment.

But if RAF pays you out, you must refund a portion of the money to your medical scheme.

Moreover, your medical scheme can actually ask that you claim from RAF and pay the scheme back.

#### **More details**

There is a principle in common law called subrogation which says that your medical scheme can ask you to recover costs on its behalf, failing which you would have unjustly enriched yourself by receiving double compensation for the same health event, namely from your scheme and from the third-party insurer such as RAF. Subrogation also protects the long-term financial soundness of medical schemes.

Most medical schemes stipulate in their rules that if you become entitled to any benefit for the treatment of an injury sustained due to negligent driving, you have to claim compensation from RAF for these and any future healthcare services which may arise as a result of the accident. You must also keep your scheme informed of the process.

Schemes can ask you to sign an undertaking that you will try to claim costs from the third-party insurer.

If you refuse to sign such an undertaking, your scheme must still cover your treatment costs and cannot refuse to fund the costs of the medical treatment you require, subject to provisions in the Medical Schemes Act 131 and the rules of the scheme.

And if you do not receive any compensation from RAF, your medical scheme remains liable for the costs of your treatment, again subject to the Medical Schemes Act and the scheme's rules.

### **Communication is key**

"Section 30(2) of the Medical Schemes Act obliges all medical schemes to provide free of charge to every member a detailed summary of the rules specifying the member's rights and obligations," says Dr Monwabisi Gantsho, Registrar of Medical Schemes and Chief Executive of the Council for Medical Schemes (CMS), regulator of the medical schemes industry.

"It is common practice among schemes to provide a summary of their rules to members, advising them that the complete rules can be provided upon request. The relationship between a member and a medical scheme is based on a contract which the parties enter into when the member joins the medical scheme, and any amendments to the contract are binding on both parties. Members are encouraged to contact their medical scheme whenever they require clarification or more information."

### **For more information**

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