

# Progress with the processing of the NHI Bill

14 June 2023

1.

## Current status of the Bill

The National Assembly passed the National Health Insurance (NHI) Bill on Tuesday, 13 June. Now that the Bill has been passed, we understand that there may be uncertainty regarding the future of the private healthcare sector in South Africa and wanted to share our position in this regard.

There are a number of steps that will still need to take place for the NHI Bill to become law. The Bill will need to be processed by the National Council of Provinces (NCOP), which will involve provincial public hearings. This is a complex process that will likely take some time and, in our view, the functioning of the private healthcare sector will continue for the foreseeable future.

Some of the concerns previously raised with respect to the Bill include:

The limitation on medical schemes to only provide cover for services that are not covered by the NHI will be very harmful to the healthcare system. This means that many individuals who currently contribute financially to the health system will no longer contribute, and the entire burden of healthcare costs will be funded through taxes. The current model, whereby revenue for healthcare is collected on a voluntary basis, will be limited to a small number of services. The creation of a single purchaser blocks individuals from contributing directly to their own healthcare costs, instead they will be taxed.

The optimal starting point for health systems reform is using what is in place and then taking progressive steps towards Universal Health Coverage (UHC). Incremental changes are achievable; big bang approaches run an excessive risk of failure. The cumbersome disruption that will be introduced through the enactment of the NHI Bill is not required to achieve UHC in South Africa. The implementation of the HMI recommendations provides the backbone of a multi-payer system that will also benefit the implementation of the NHI.

A fundamental challenge to the implementation of the NHI lies in the unavailability of state funding to finance the vast set of reforms. After the Covid pandemic the economy has not improved sufficiently, and with loadshedding economic growth is severely hampered, and unemployment and poverty levels are extremely high. Without economic growth, government revenue is severely constrained.

There are numerous areas of the Bill that are very arduous to implement and will lead to a reduction in access to healthcare. These include, the requirements for adherence to a referral pathway, the requirements to register as a user, the creation of multiple new semi-autonomous national government entities without defined governance structures, the implementation of a health information system, reduced access to care for asylum seekers and refugees, the accreditation of healthcare providers while the vast majority of state facilities do not meet the requirements set by the Office of Health Standards Compliance (OHSC), the establishment of all the structures that are specified in the Bill, and many more.

The Bill affords excessive powers to the Minister and requires the operational involvement of the Minister in the NHI. In addition, the Bill centralises provincial powers. These factors threaten the independent functioning of the NHI.

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## 2.

### Remaining steps in the Processing of the Bill

The NCOP Select Committee will refer the Bill to the nine Provincial Legislatures, which will each undertake their own public consultation process. Bills are usually considered by a provincial committee, which may hold public hearings to receive comments and suggestions. The legislatures then decide on their position on the Bill and mandate their NCOP delegation accordingly.

Provincial representatives must report back to the NCOP Select Committee on their provincial decisions. The Select Committee then negotiates a final version of the Bill and sends a report of their decision and any suggested changes to the NCOP. The NCOP considers the report and then votes on the Bill. Each province has one vote.

If the Council passes the Bill without amendment, the Bill must be submitted to the President for assent. If the NCOP makes changes to the Bill, it will need to go back to the NA for approval. If the NA and the NCOP are not in agreement, a complex mediation process defined in the Constitution is embarked upon.

Once both houses of Parliament have agreed to a final version of a Bill, the parliamentary process is complete, and it is sent to the President for assent. At that point stakeholders may petition the President to sign or enact the Bill into law, or the converse if they have specific concerns.

The President then signs the Bill and indicates when the Bill becomes effective (some clauses can be held in abeyance), and it becomes an Act and law in South Africa.

Once enacted, it is up to national and provincial ministries and departments to implement the law. In the case of the NHI, the Minister, national and provincial legislatures and local authorities will have to pass subordinate legislation that gives more detail on matters contained in the original law.

The entire parliamentary process is only complete when it culminates in the Bill being sent to the President for assent.



## 3.

### Conclusion

Whilst we believe that taking steps to Universal Health Coverage is the right thing to do, as we need to provide more health for more people for less in South Africa, we are particularly concerned that the single funder model and the restriction of services that a medical scheme can offer, will not support this goal. To achieve the goal of universal access to healthcare, we need extensive collaboration between the private sector and government - we must use the significant private healthcare expertise and resources at our disposal - from provision and management of care to funding and administration.

Through the implementation of the Health Market Inquiry (HMI) recommendations, the private sector will be better positioned to support government in providing healthcare to all South Africans. The introduction of low-cost benefit options is an immediate first step that will improve access to healthcare for millions of South Africans. Incremental steps towards the improvement of public health services must be taken to improve access to care for all people.

In multiple submissions to government, we have offered to collaborate to ensure healthcare excellence and to retain expertise in the health system to the advantage of all South Africans. As it stands, it is likely that the NHI legislation will be open to constitutional challenges, with legal action already being threatened.