



UHAC calls for implementation of full package of HMI recommendations to improve SA's private healthcare system

The government's proposal to implement only minor selected recommendations of the five-year-old Health Market Inquiry (HMI) in order to address high costs of private healthcare will "do nothing" to advance urgently needed reform of both public and private healthcare.

This is the view of the Universal Healthcare Access Coalition (UHAC), a broad-based alliance representing the majority of SA's healthcare professionals and funders, in response to Trade, Industry and Competition Minister Parks Tau's invitation for public comment on draft regulations to facilitate tariff negotiation in the private healthcare sector.

The "draft interim block exemptions" would exempt medical schemes and private healthcare providers from the Competition Act's ban on collective bargaining and set up a multilateral negotiating and price-setting body overseen by the Health Department.

UHAC has questioned the legality of the "block exemption" approach and control of the tariff-setting process by the department rather than an independent body, as well as the effectiveness of a piecemeal approach to implementing the HMI recommendations.

The proposed multilateral negotiating forum excludes tariffs for private hospitals and other private healthcare facilities, yet these are responsible for most healthcare costs and inflation.

The stated aim of the regulations, according to Tau, is to contribute to realising the Constitutional right of access to healthcare and put a check on private healthcare costs to ensure the majority of South Africans have access to affordable healthcare.

UHAC steering committee member Dr Mvuyisi Mzukwa described the development as one-sided; ineffective in improving access to private healthcare while not addressing the need for integration of public and private healthcare.

"There is no arguing that we need better regulation of the private healthcare sector, including on how tariffs are determined. Controlling the costs of private healthcare is a vital component in achieving equitable access to healthcare, but government's contention that this will ensure affordable healthcare for the majority of South Africans is a fallacy.

“The reality is that only about 15% of South Africans are members of a private medical scheme,ⁱ and even if prices decrease significantly, the majority do not have sufficient income to pay for healthcare in any form, regardless of price.

“The majority are always going to be catered for by a tax-funded free public healthcare service, not through medical schemes. The only possible framework for the South African context is for both systems to work together in order to ensure universal healthcare access for all levels of income and non-income earners,” said Dr Mzukwa, who is chair of the SA Medical Association (SAMA).

UHAC steering committee member Prof Alex van den Heever, of the Wits School of Governance, said the use of an exemption provision to the Competition Act to manage health policy was questionable, and likely open to court challenges.

“The regulations gazetted by the Minister of Trade, Industry and Competition not only provide for price-setting but also introduce a framework to assess treatment protocols and quality of care, that are self-evidently beyond the scope of the Competition Act, which is not enabled to make pronouncements on issues of health care.

“These are health policy issues which fall squarely under the jurisdiction of the Minister of Health, and has nothing to do with Trade, Industry and Competition. It is the Minister of Health who needs to establish a positive legislative framework to implement the recommendations of the HMI,” Van den Heever said.

Health Minister Aaron Motsoaledi has described the move as an “interim stop-gap measure” to address rising costs of private healthcare ahead of implementation of National Health Insurance (NHI).

UHAC maintains that the NHI is unimplementable and has developed a proposal for healthcare reform which offers a pragmatic, financially viable and sustainable route to achieving equitable, quality and affordable universal healthcare access, with more than 30 healthcare professional organisations as signatories.

“There is a flawed mindset behind this interim approach. The Health Department is refusing to put in place a permanent system to manage and regulate private healthcare because it is working on the assumption that somehow in three years’ time we will have a completely new healthcare system that replaces both the current public and private systems, and pays for everything.

“This is implausible. It is not going to happen,” said UHAC steering committee member Dr Aslam Dasoo, convenor of the Progressive Health Forum (PHF).

The Health Market Inquiry undertaken by the Competition Commission, which investigated competition and price setting in the private healthcare sector, was clear in its recommendations in 2019 that they involved an integrated package of measures designed to achieve systemic

change in how the sector operates and create a pro-competitive environment. Piecemeal measures would be insufficient.

“The HMI report is five years old, the recommendations were issued in 2019, but only now is implementation being talked about as urgent, while lacking a comprehensive, integrated response that could have been developed over the last five years,” Dasoo added.

UHAC steering committee member Dr Simon Strachan, CEO of the SA Private Practitioners’ Forum (SAPPF), said government was instead pursuing a fragmented, watered-down version of the HMI recommendations.

“The HMI chair, former chief justice Sandile Ngcobo, emphasised that market failures may persist if a partial approach is taken to implementing the recommendations, yet this is exactly what government is now doing.

“The HMI report was clear that the systemic weaknesses in private healthcare were due to government’s failure of stewardship for over 20 years, including failure of the Health Department to use its existing legislated powers to manage the private healthcare market and hold regulators accountable. As a result, we have a private healthcare sector that is neither efficient nor competitive.

“The Department of Health’s latest response to the HMI findings will neither enhance competition, nor improve protection of consumers,” said Strachan.

The focus on narrow aspects of pricing alone and the piecemeal approach now being taken would not reduce the costs of private healthcare, he said.

“The Minister of Health is silent on all the other measures recommended by the HMI, such as the need for a risk equalization framework, processes for regulating hospital licensing, quality assurance and measuring the outcomes of patient care, and ensuring the independence of supplier regulation and tariff-setting bodies in order to guard against political interference.

“These are all key elements of a structured approach to managing private healthcare. Without those, even if a price regulatory framework were to work, capping prices on its own would have no effect on costs because the supplier-induced demand that the HMI identified would not be resolved without the other systematic interventions,” Van den Heever said.

(Supplier-induced demand is where suppliers, such as medical practitioners or hospitals, influence demand by ordering diagnostic tests, recommending treatments or procedures, or prescribing medications, that some argue are clinically unnecessary, amounting to over-servicing or over-prescribing to uninformed consumers.)

On the lawfulness of the block exemption approach, Van den Heever said the use of an exemption provision in a piece of legislation unrelated to healthcare, i.e. the Competition Act, was unusual and would likely not stand up to legal scrutiny.

“This is very likely unlawful because the Minister of Trade, Industry and Competition does not have the authority to regulate the health system – that is the responsibility of the Minister of Health.

“Meanwhile, the Minister of Health has not put forward this process in terms of his powers and the legislation that falls under his jurisdiction,” Van den Heever said.

While the HMI recommended an independent body to steer private healthcare tariff negotiations and adjudicate disputes, the Minister of Health has said that this function will be managed by the department, which Van den Heever argues is not independent and is likely to be tied up in legal challenges and delay yearly tariff announcements.

“Even if this is tried as an interim measure, in terms of the proposed exemption provision, it will be subject to legal challenges by any stakeholder unhappy with a final choice made by a health department official.

“It is also very unclear whether the final tariffs produced through the gazetted framework will be binding on any party,” Van den Heever said.

Mzukwa said that UHAC recommended that the flawed block exemption approach be scrapped and that government instead take immediate action to implement the full recommendations of the HMI, which provided “a detailed, evidence-based roadmap for addressing healthcare pricing and market distortions”.

UHAC is urging government to initiate a formal legislative process to holistically implement the HMI recommendations, addressing both pricing and demand-side issues.

Strachan said this should include establishing an independent regulatory authority to oversee tariff-setting and prevent anti-competitive pricing, with a structured multilateral negotiating body to ensure transparent, fair and binding tariffs.

“Hospital and facility pricing must be incorporated in the tariff-setting mechanism in order to address the largest contributors to healthcare cost inflation. This must be combined with implementing the HMI’s recommended market reforms, such as the risk equalisation mechanism together with an enhanced mandatory minimum benefits framework.

“The Competition Commission, Council for Medical Schemes and National Treasury should play a greater oversight role, ensuring that any tariff-setting mechanism is economically sound, competition-compliant, and legally enforceable,” he said.

“The time for short-term, piecemeal interventions has passed and South Africa requires a coherent, legally grounded, and independently regulated healthcare pricing framework that aligns with global best practices and competition law principles,” Dasoo concluded.

ENDS.

About the Universal Healthcare Access Coalition (UHAC)

The Universal Healthcare Access Coalition (UHAC) is a collaboration of the majority of SA's healthcare professional organisations and related institutions of patient advocacy, academia and society. There are currently 34 organisations that have joined UHAC and are signatories to its proposal [at 5 March 2025].

The reform proposal was jointly developed by the South African Medical Association (SAMA), the Progressive Health Forum (PHF) and the SA Private Practitioners Forum (SAPPF), which then formed UHAC and gathered further input and signatories.

The coalition is committed to building a broad consensus by fostering open dialogue and inviting inputs to strengthen the proposals for healthcare reform in SA, pursuant to the constitutional entitlement to unimpeded access to healthcare for all who live in South Africa.

¹ Stats SA. General Household Survey 2023, released May 2024.
<https://www.statssa.gov.za/publications/P0318/P03182023.pdf>