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JSE Today	%	
Top 40	↑ 24 316	0.5
All Share	↑ 26 962	0.5
Resource	↑ 49 534	0.3
Industrial 25	↑ 18 546	0.7
Financial 25	↑ 9 203	0.8
Currencies		
Rand/US\$	↓ 7.32	0.4
Rand/£	↓ 14.39	0.2
Rand/€	↑ 9.76	0.0
US\$/€	↓ 1.33	0.1
US\$/Aus\$	↓ 0.81	0.4
Commodities		
Gold	↓ 665	0.2
Platinum	↓ 1238	0.2
Winners Today		
COMP CLEAR	275	7.8
GLENMIB	148	5.7
ALTRON PP	4 420	4.9
M&R HLD	5 670	3.1
MTN GROUP	9 450	3.0
Losers Today		
BELL	3 105	5.3
BJM	595	3.9
	1 155	2.9
CELCOM	127	2.3
AFGOLD	340	2.3

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Discovery facing R450m suit

16/03/2007 15:11

By: Sikonathi Mantshantsha

Johannesburg - Discovery Health faces a possible lawsuit for "illegally charging" its medical scheme members an "ancillary fee" amounting to hundreds of millions of rands between the years 2001 and 2005.

Print story on Email Story

Wynsam Wealth, a health consultancy in Pietermaritzburg, has taken legal advice and would be ready to approach the courts in the next week to seek refunds amounting to more than R450m on behalf of current and former Discovery clients.

Wynsam says Discovery charged about a third of its clients or 244 000 people a R39 monthly "ancillary fee", amounting to R114m each year.

"We are going to sue for a refund on behalf of everyone who was aggrieved by the illegal charge," says Wynand Venter, the owner of Wynsam Wealth.

"We realised that this scheme was not legitimate according to the Medical Schemes Act."

No option

Venter says Discovery Health Medical Scheme (DHMS) charged people for providing non-health insurance related services. Venter says DHMS falsely pretended the services were compulsory. "There was no option of opting out if a member didn't want it."

"Discovery Health billed individual members and groups of less than 35 members the extra ancillary fee," says Venter. Groups with 35 or more members received the services for free.

Asked how Wynsam arrived at the 244 000 affected people, Venter said Discovery itself gave the number to a journalist in 2005.

The practice stopped in 2005. "However, stopping a practice does not mean Discovery Health should get away with it," says Venter. He says his company approached Discovery on behalf of its 25 clients and other affected Discovery members with the aim of getting a refund but was dismissed by Discovery.

Venter now calls on current and former Discovery members to join the action at no charge. "Going to court for 25 people is not really ideal, we urge everyone who want to reclaim their refund or anyone who was aggrieved by the action to join in."

Previous suit

However, Venter is adamant he'll go ahead with his current clients.

Any chances of success? Venter points to a civil court action successfully instituted by Nafeesa Sabida at the Randburg magistrate court in October 2004. Sabida, a member of DHMS, was refunded her payments amounting to R1 203 plus interest and costs of the action against Discovery.

The "services" on which Sabida based her suit covered the period between January 2002 and May 2004 when she was charged a monthly "ancillary fee" of R39. She was still a member of the scheme during the court case.

Sabida's complaint was that the services for which she was billed were not compulsory and therefore she should have been given an opportunity not to receive them.

In its defence, Discovery pleaded that it had offered a set of products and benefits to DHMS members who "elected" to receive them. Discovery said in its plea: "Members of DHMS who elected to receive the benefits were obliged to pay a monthly fee to the defendant (Discovery) in consideration of the benefits."

Express contract

It listed the benefits as Discovery Rapid Response, Discovery World and access to Express Claims. The first two respectively provided emergency services and internet facilities to DHMS members while the latter is described as "a service whereby members might have their claims paid on a daily basis".

It said "an express contract" was concluded with members in terms of which Discovery would be obliged to provide the benefits. Read part of the defence plea: "The defendant (Discovery) admits that the ancillary services fee was not a compulsory payment in terms of statute."

However, it could not produce such contract between itself and Sabida. Venter says he would be seeking a declaratory order from the courts to grant refunds on behalf of his 25 clients and every other member of the scheme.

"It's disappointing when brokers make unfounded allegations like this against us. We pride ourselves as having good relations with brokers," Says Alan Pollard, General Manager for Research and Development at Discovery Health.

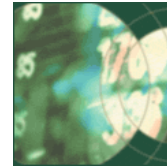
"There is no basis for this claim. We will contest it in court."

No provision made for claim

Pollard says his company disclosed to its members what services they were paying for and that the members could elect not to receive the services.

"The money was paid for services we rendered and they were valuable services that were widely used by members."

Pollard confirmed the figure of 244 000 affected members. He also confirmed that Discovery has made no provision for this new claim.



WHAT'S BEHIND FINWEEK'S LATEST COVER STORY?



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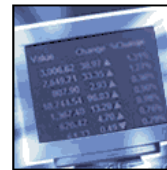
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On the civil case involving Sabida, Pollard says Discovery paid without admitting liability as that was a pragmatic thing to do considering the amount claimed was relatively small. "There was no judgement against us, the matter never went to court."

However, documents provided by Venter show the matter reached the Randburg magistrate court in October 2004 and was settled with costs against Discovery in June 2005 after a series of correspondence between lawyers acting on behalf of Sabida and those acting for Discovery.



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Nickname: Wynsam
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Message: Go to www.wynsam.co.za for info on how to join the action.
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Nickname: jagter
Subject:
Message: would also like to join the action please email details
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Nickname: Happy Member
Subject: Discovery Health
Message: I think Discovery offer an excellent service and that people should read documents before signing them!
Date Inserted: 3/20/2007 6:50:32 AM

Nickname: Ken
Subject: List
Message: How do I get on the list - I have been a Discovery member for over 10 years.
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Nickname: Gatvol
Subject: Discovery
Message: Discovery kicked me out of their scheme 3 years ago after they have neglected to take one of my dependants off from their scheme and I registered same on another cheaper medical scheme.
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