NEHAWU

SUBMISSION ON THE HEALTH MARKET INQUIRY

TOWARDS: THE FINDINGS AND RECOMMENDATION

THEFINDINGS AND RECOMMENDATIONS REPORT

Friday, September 2018

Contact:

Tel : 011 833 2902

Address: 56 Marshall St, Marshalltown
Johannesburg, 2001

Table of Contents

1. Introduction

1.1 The National Education, Health Allied Workers' Union (NEHAWU), welcomes the opportunity to provide a submission to the Health Market Inquiry (HMI) with regards to the Provisional Findings and Recommendations report of 5th July 2018. NEHAWU, an affiliate of the Congress of South African Trade Unions (COSATU), has more than 270 000 members and primarily operates in the tertiary education sector, public health and private health sector, state administration, and social development sector. COSATU is the largest and most powerful trade union federation in South Africa and has more than 1.6 million members.

Access to quality healthcare services is fundamental to the physical and mental well-being of all individuals. The right to health care services is provided for in three sections of the South African Constitution. These provisions for access to health care services include, reproductive health and emergency services, basic health care for children, and medical services for detained persons and prisoners. Universal access is provided for in section 27(1) (a) which states that "Everyone has the right to have access to health care services, including reproductive health care", and Section 27(1) (b) provides for the State to "take reasonable legislative and other measures, within its available resources to achieve the progressive realisation of the right."

The National Health Insurance is one of the measures designed to ensure that there is universal access to health care. NHI is introduced to realise the right to comprehensive health care of good quality for everyone on the basis of need, while ensuring that no one experiences financial hardship in accessing the care they need. Comprehensive care includes promotive, preventative, curative, rehabilitative, and palliative health services regardless of people's socio-economic or health status. The problems in the health system are well summarised in the National Development Plan (NDP) 2030.

Health is recognized as a human right under the Universal Declaration of Human Rights established in 1948. The Covenant on Economic, Cultural, and Social Rights, which South Africa ratified for entry into force in April 2015, recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. South Africa currently spends 8.5 % of Gross Domestic Product (GDP) on health care with the private sector spending 4.4% of GDP on health which benefits

only 16% of the population, while the public sector spends 4.1% of GDP on health care for the remaining 84% of the population.

In 2013, the Competition Commission initiated the Health Market Inquiry (HMI) in the private health sector to investigate possible elements in the market which may be preventing competition in the sector. Free market competition comprises of many sellers who compete for the market share based on the products that they sell, and the prices that they charge.

Health is a public good which should be available to everyone, and the private sector participation is inconsistent with the universal health coverage. The purpose of the Commission under this Health Market Inquiry is to make recommendations to relevant stakeholders including government departments, which may include the amendment of policies and laws, creation of new institutions; however it is up to stakeholders to ensure that recommendations made are implemented by lobbying for amendment of policy and laws in accordance to the recommendations. However the Competition Commission policy is based on neo-liberalism in the sense that the focus is more concerned on creating conditions for companies to compete mainly on prices without considering other factors. The factors include cross-subsidisation which usually increases barriers to entry for the new entrants. It is assumed that if there are many providers of health services there will be competition based on level and quality of services and prices. Therefore, legal framework under which the inquiry is limited by its belief in neo-liberalism.

The Commission has invited various stakeholders to make presentations on the private health sector, and offer analysis on the various documentary evidence and oral evidence, the Commission has produced a provisional report on the 5th of July 2018, and stakeholders have been requested to make input on the recommendations before 7 September 2018.

2. Overall posture towards the Health Market Inquiry report.

NEHAWU supports the Health Market Inquiry in terms of its intended objectives to try to address challenges that are in the private health sector, As the South African private health sector suffers from a multiple market failures. The sector comprises a complex set of interrelated stakeholders who interact with one another in an imperfect environment replete with information asymmetry, a lack of transparency

and moral hazard. As NEHAWU we have noticed a certain aspects in the Health Market Inquiry (HMI) report that will contradict with the implementation of the envisioned National Health Insurance (NHI) as envisioned by NEHAWU, and we have provided alternative amendments to strengthen the HMI report. The 2017 NEHAWU 11th Congress has resolved that the National Health Insurance (NHI) must be fully implemented in order to ensure that all citizens of South Africa and legal long-term residents are provided with essential healthcare, regardless of their employment status and ability to make a direct monetary contribution to the NHI Fund.

3. Recommendations by NEHAWU to the Health Market Inquiry(HMI)

3.1 Funders

NEHAWU observed that challenges faced by consumers includes not knowing which option to choose from based on the number of options offered by the funders. There are currently approximately more than 270 options that consumers are supposed to choose from. The HMI has recommended that there be an introduction of the base package that must be accompanied by a system of risk adjustment which will remove schemes incentives to compete on risk factors, such as age, and will instead encourage schemes to compete on value for money and innovative models of care. Supplementary cover can be provided for care not included in the base package. HMI recommends that the Council of Medical Scheme (CMS) develop standards and requirement for all options for supplementary cover.

NEHAWU supports the base cover recommendation but with a view that it must be called the “standard cover “in order to eliminate current duplication and confusion because of various options. Therefore NEHAWU also recommends that the standard cover should be the only option offered in all schemes and it must provide comprehensive cover that offers access to care at the provider of consumer’s choice, comprehensive in-and-out-of hospital cover and all the 270 options must be consolidated to make one standard cover. Therefore NEHAWU does not support the introduction of the supplementary cover because supplementary cover will enable duplication of the current medical schemes systems. The HMI in their findings have stated that there is lack of regulation, and therefore we reject the supplementary cover on the basis of its inadequate regulation and monitoring. This will also reduce

asymmetric information faced by consumers when making a decision on the option plan best suit them.

The World Health Organisation and the OECD in terms of prices have found that prices in the South African private hospitals are high relative to South Africa's income level, and on par with the OECD average and much higher-income European countries (i.e., France, U.K, and Germany). Prices in South African private hospitals are increasing above the rate of increase for other goods and services in the South African economy. Prices in South African private hospitals are unaffordable for the vast majority of South Africans and also the higher income groups. Among countries in their study, prices in the South African private hospitals are the least affordable, as measured by the largest difference between private hospital price levels and the price levels for all other goods in the economy. As NEHAWU, we have noted that lack of regulation results in over pricing which contributes to unaffordability of health care in the private sector. Therefore a standard cover will enable funders to compete in terms of value for money to members. This will improve transparency and assist consumers in comparing products, coverage and value across industry.

3.2 Facilities

NEHAWU proposes that there should no longer be the issuing of hospital licences as we are progressing towards the National Health Insurance. The oversupply of services or supply induced demand in the private sector is also perpetuated by a number of beds available. The more beds available, the higher the number of admission and extended stay in hospital. Increasing a Certificate of Need (CON) may increase competition in the market as a result of more entrance into the market. The problem here is that these certificates of need may be given to the three monopolies in the private health system who are already controlling the space which has made it difficult for new entrance in the market. With the current monopolistic system of our private health care, we can't afford to issue more Certificate of Need (CON). The three big private hospitals have bargaining power over medical aid schemes. This will allow for consumers to have an option to either use the private sector or public sector. The National Health Act provisions dealing with leasing of the Certificate of Need (CON) needs to be implemented in the manner that gives effect

to the constitutional right of access to healthcare services, and with the introduction of the NHI this can be achieved.

Thus as NEHAWU, we do not support the recommendation of the Health Market Inquiry that the Minister of Health may issue appropriate regulations for the granting of the CON in line with centralised national licensing framework for all health establishment, including day clinics, hospitals, sub-acute facilities as well as primary care facilities such as dental surgeries, General Practitioners (GP) rooms and primary care clinics. The extension of licensing regime beyond acute facilities can be implemented over time. Provincial health authorities will remain responsible for assessing and granting licences according to the principles set out in the national licensing framework. The licensing framework should be based on a comprehensive national plan that takes capacity in both the private and the public sectors into account.

3.3 Practitioners

The method of reimbursing doctors encourages over servicing in the sense that patients are placed and put on unnecessary treatment, and they are hospitalised for a longer period than necessary. This has increased profits for practitioners. There is high rate of admission in South Africa relative to other Organisation for Economic Cooperation and Development (OECD) countries.

On the question of whether there is an oversupply of doctors in the private sector, the inquiry found that because doctors also find the time and space to work in the public sector they could not conclude whether there is an oversupply. According to the report there are 2.12 medical practitioners per 1000 population in the private sector compared to 0.3 medical practitioners per 1000 population in the public sector.

NEHAWU observes that we are moving towards to National Health Insurance, and the method of payment that is going to be implemented is different from the fee- for-service methods. Therefore as NEHAWU we do not support the fee-for service model because it produces financial driven perverse incentives i.e. health services are conducted as means of revenue generation and not from an appropriateness need for care perspective.

Fee-for-service perpetuates fragmentation in healthcare and does not address the quality of testing or results produced. It raises costs, discourages the efficiencies of integrated care. The model is preoccupied with the accumulation of surplus value and put emphasis on exchange value superseding use value. This results to consumers which are the patient exhausting their medical savings early and then having to become the burden of the public health.

NEHAWU recommends that the Fee-for-service (FFS) model must not be regulated but must be abolished as we are moving towards the National Health Insurance and it should be replaced by an alternative pricing model such as the Diagnostic Cost Group.

4. Additional recommendations to Health Market Inquiry

NEHAWU welcomes the recommendation to strengthen governance in order to reduce dominance of administrators on medical schemes, which has been one of the leading elements to high medical aid costs and the NHI white paper. NHI requires the establishment of strong governance mechanisms and improved accountability for the use of allocated funds.

To improve governance and align schemes interest with those of consumers, As NEHAWU we welcome the proposal that Principal Officers should be earning based on performance, this will encourage quality of the health care. Principal Officers and trustees' remuneration also form part of non-health care expenditure just like administration, and regulation of these cost will result to more efficient use of health care resources, and reduced cost of medical aids.

NEHAWU proposes that the broker system be abolished as proposed by the Medical Schemes Amendment Bill as there will no longer be a need for brokers because of the introduction of the proposed standard cover. Therefore we reject the proposal made that broker system is an active option. Members will be required on an annual basis, to declare if they want to use the services of a broker, for those that do, the scheme will facilitate the payment to the broker. Members who choose not to use the services of the broker will pay proportionally lower membership fees.

Conclusion

The OECD has once done research on International Comparison of South African Private Hospital Price Levels, and explained that South Africa is unique because it spends a higher share of its total health expenditure on private voluntary health insurance compared with any OECD countries including the United States. However we believe that this will be corrected by the universal health coverage.

NEHAWU sees the Medical Schemes Amendment Bill by the Minister of Health as a progressive tool towards NHI. This Bill amends the Medical Schemes Act 131, 1998 to align it with the National Health Insurance White Paper, and the Draft National Health Insurance Fund Bill. Amongst other 10 massive medical aid changes amendment in the bill talks about the abolishing of the co-payment mechanism. This confident step by the department of health will ensure that workers and the poor are no longer expected to pay additional monies on top of medical aid contributions for health care provision as we progress towards NHI.

National Health Insurance (NHI) is very vital therefore without, majority of the population suffering the greatest ill health will continue to be excluded from accessing good quality healthcare. Whilst NHI will offer all South Africans and legal residents access to a defined package of comprehensive health services.

NEHAWU notes that the Commission is given a wide range of powers to eliminate features that have an adverse or detrimental effect on competition in the context of a market inquiry. It may find that some stakeholders are engaging in anticompetitive conduct and its report may lead to enforcement proceedings. Indeed, apart from making recommendations, the Commission may, based on the information obtained in the course of the market inquiry initiate and refer a complaint against firms directly to the Competition Tribunal without further investigation. It is therefore apparent that the outcomes of the HMI may result in a decision that may adversely affect the rights of some stakeholders. We encourage the Health Market Inquiry to use their powers to the non-compliant in the private health sector.