
COVID AMENDMENT BILL

Clause 43(4)

CompSol's presentation to the Parliamentary Portfolio Committee on Employment and Labour

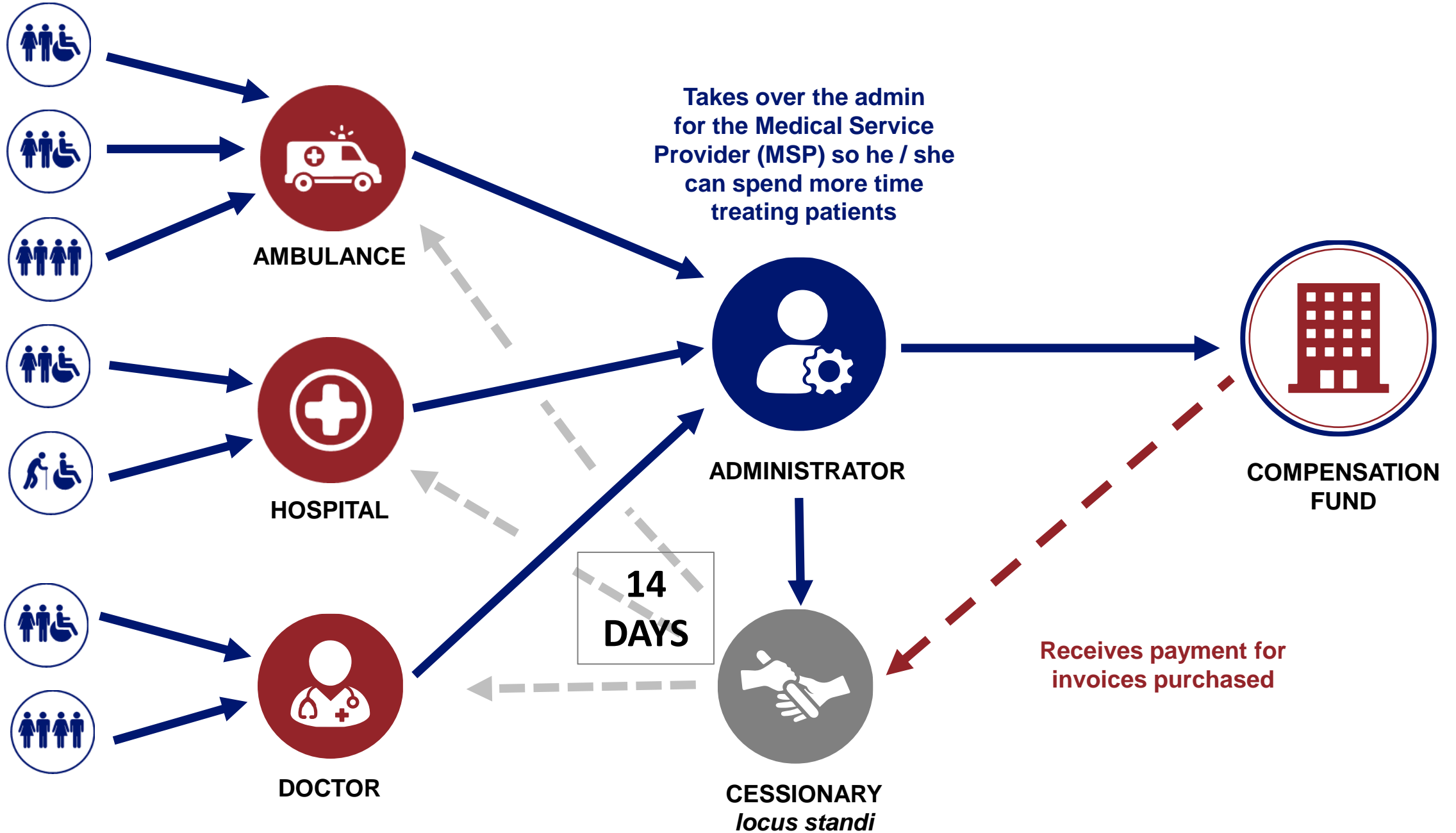
In opposition to the proposed amendment

22 April 2021

Executive Summary – Clause 43(4)

- Introduction _____ *Fritz Lüttich*
 - Welcome domestic workers inclusion
- Part 1 – Overview _____ *Fritz Lüttich*
 - Cessionary / Factoring House
 - Why opposing
 - Practical implications of cession
- Part 2 – Ceding _____ *Craig Tudhope*
 - What it does and does not do - Accounting / Technical
- Part 3 - Legal _____ *Mirieke Vermaak*
 - Legal implications of Clause 43(4)

INJURED EMPLOYEES



Takes over the admin for the Medical Service Provider (MSP) so he / she can spend more time treating patients

AMBULANCE

HOSPITAL

DOCTOR

ADMINISTRATOR

CESSIONARY
locus standi

COMPENSATION FUND

14
DAYS

Receives payment for invoices purchased

CompSol overview

NUMBERS:

- National footprint of **1,863** Medical practices encompassing all **66** medical disciplines, representing more than **5,000** medical professionals.
- MSP's delivered **3,415,205** treatments to **787,319** injured workers over the past 5 years.
- Assisted **179,010** employers with their IOD's in past 5 years.

Overview cont...

VOLUMES:

- Factored / pre-funded **> R4 500 000 000** invoices over past 5 years
- We process in excess of **60%** of all medical accounts submitted to the Fund

Overview cont...

STAFF:

- Employ **438 staff** – most stationed in the Eastern Cape creating much needed employment

Overview cont...

DEBTORS (Unpaid accounts):

Collectively our MSP's are

owed more than

R556 000 000

in switched but unpaid accounts.

In addition > **R180,000,000** services were already rendered in good faith, not yet submitted as **claims could not be registered** due to CompEasy system problems.

Overview cont...

DEBTORS (Unpaid accounts):

Average time for the Fund to pay an invoice

347 days

Overview cont...

DEBTORS – per Labour Office

DEBTORS DAYS (BASED ON DATE OF LAST TREATMENT)	
LABOUR OFFICE	DEBTORS DAYS
Gqeberha	474
Mmabatho	448
Johannesburg	417
East London	392
Tshwane	360
Kimberley	354
Cape Town	347
Polokwane	304
Durban	297
Bloemfontein	221
Emalahleni	221
Group Average	347

Overview cont...

DEBTORS Days in perspective

Medical Aid	CompSol	Compensation Fund
25 – 40 days	14 days	221 – 474 days

**Is it fair that YOUR DOCTOR
waits more than a year to be
paid?**

Overview Summary

CESSIONARIES:

- Are the **Gate Keepers & Aggregators**
- Ensure MSPs, Employers and Injured Workers realise their **rights in terms of the COID Act**
- Provide **administrative** support to Employers, Employees and MSP's
- Provide **Working Capital** to MSPs.
- **Eliminate 99.9%** of potential **fraud**

Why do we oppose Clause 43(4)?

PROBLEM STATEMENT:

- Despite repeated outreach there has been **limited response** by and engagement with Compensation Fund Commissioner Mr. Vuyo Mafata regarding serious shortcomings on the Fund's side

Senior Management officials are **unable** to:

- Ensure fixing of CompEasy problems
 - Train staff to prevent incorrect rejections of valid invoices
- Individual MSPs **cannot afford** to take **LEGAL ACTION**

Why do we oppose Clause 43(4)?

Stakeholders seek

JUST ADMINISTRATIVE ACTION

Clause 43(4) seeks to ban the collective ability of 3rd Party cessionaries to hold the Fund accountable for Just Administrative Action.

What are our options?

All operational engagements with the Fund are exhausted,

We are left with no choice but to engage in legal action

What has the High Court ruled?

- No less than **18 different Judges of the High Court** rejected all of the Funds repetitive & frivolous defenses – yet they persist with Fruitless & Wasteful expenditure.
- Judge Constantinides made the following judgment:

“This [Funds legal action] is a textbook example of the abuse of the Court process.”
4 May 2020

- In 9 recent court cases the Fund presented 113 rejected invoice examples, under oath, directly out of CE, as proof why those invoices will not be paid by the Fund

On investigation **all 113 invoices were invalidly rejected.**

Our Proof

INVALID REJECTIONS: Total R222 million

INVALID REJECTIONS		
PROBLEM TYPE	CF REJECTION CATEGORY	TOTAL
COMPEASY(CE) SOFTWARE	Invalid Billing	48
	Invalid Claim Number or Liability Not Accepted	26
	Exempted Employer	9
	Invalid BP Number	2
CE SOFTWARE PROBLEM TOTAL		85
CF STAFF	No or Invalid Pre-Authorisation and / or lack of Medical Report	20
	Duplicate Claim	4
	No Rejection Reason	2
	Claim Has Been Paid	1
	CF Need Actual Invoice	1
CF STAFF PROBLEM TOTAL		28
TOTAL INVALID REJECTIONS		113

“Even the best Employees cannot work with a broken system”

Cessionaries: Practical Considerations

Fraud is eliminated as we **ensure legal compliance** before an invoice is submitted to the Fund via our state-of-the-art software with build in validations.

- **Fund is alerted** to possible fraudulent transactions
- Most (if not all) reported cases involved the **Fund's own staff** and / or MSP's submitting invoices directly to the Fund.
- Invoices are switched **AFTER** the Fund has **accepted liability** for the incident

Cessionaries: Practical Considerations

No legal action for fraud has ever been taken against any
3rd Party cessionary

Legal action has been successful against **3rd party administrators**
NOT offering a factoring / cession product.

- Inclusion of Clause 43(4) has no impact on these entities
 - Will thus not prevent fraud

Cessionaries: Practical Considerations

FACTORING = ZERO COSTS

- **MSPs carry the full cost** of a commercial factoring agreement.
- **No costs** to Employer, Injured Worker or the Compensation Fund.
- The factoring process happens **POST patient treatment** and does not prohibit any *medico legal* action against MSP's.

Cessionaries: Practical Considerations

FACTORING BENEFITS:

- Much needed **working capital** injected into medical practices ensuring their **sustainability & willingness** to treat Injured Workers
- allows young, **newly-qualified doctors** to get their practices established, buy equipment and sustainably treat IOD patients
- Injured Workers are assisted by **willing and able MSPs**
- **Back-to-work protocols** ensure **minimum negative impact** on the economy
- Employers have **minimal downtime** & are assisted in their effort to comply with the complex COID environment

SUMMARY

3rd Party Cessionaries are:

Gatekeepers

Aggregators

Part of the solution - not the problem

Need legal access to court

The problem is the chronic dysfunctionality of the Compensation Funds' systems and poorly trained staff

Inclusions of Clause 43(4) of the Bill
will deepen the problems of the CF

SUMMARY

Workers being denied their rights

Medical service providers withdrawing from IOD medical treatment

Employers not receiving what they pay for

Compensation Fund facing collapse and damaging the economy

The End – PART 1

I will now hand over to Mr. Craig Tudhope CA(SA)

He will discuss:

*“The technicalities of Ceding –
what it does and does not do”*

Clause 43(4)

Amendment of section 73 of Act 130 of 1993

43. Section 73 of the principal Act is hereby amended by the addition of the following subsections:

“(3) Notwithstanding the provision of subsection (2) the medical practitioner may after the claim has been finalised or the period referred to in subsection (1) has lapsed, apply for reopening of the claim and payment of further medical costs. 45

(4) Any provision of any agreement existing at the commencement of this Act or concluded thereafter in terms of which a service provider cedes or purports to cede or relinquishes or purports to relinquish any rights to medical claim in terms of this Act, shall be void.” 50

Background and Context

MEMORANDUM ON THE OBJECTS OF THE COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES AMENDMENT BILL, 2020

2. CLAUSE BY CLAUSE ANALYSIS

2.11 Clause 43

Clause 43 seeks to amend section 73 of the Act to expressly provide for the reopening of the claims after the expiry of two years from the date of accident and to provide that any provision of any agreement existing at the commencement of this Act or concluded thereafter in terms of which a service provider cedes or purports to cede or relinquishes or purports to relinquish any rights to medical claim in terms of this Act, shall be void.

Socio-Economic Impact Assessment

- Introduced in 2015 as requirement for Cabinet sign-off

CRITERIA	EXTRACT
Quality sign off date by Department of Planning, Monitoring and Evaluation:	2 August 2019
Version signed off:	May 2015
How long did it take the department to complete the SEIA template?	Two months , including consultative workshop(s) and final report writing.

Socio-Economic Impact Assessment



THE PRESIDENCY

REPUBLIC OF SOUTH AFRICA

DEPARTMENT OF PLANNING, MONITORING AND EVALUATION

SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)

FINAL IMPACT ASSESSMENT FOR COMPENSATION FOR INJURIES AND DISEASES ACT (COIDA)

Version: May 2015



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA

SOCIO-ECONOMIC IMPACT ASSESSMENT AND QUALITY ASSURANCE SIGN-OFF FORM

This is to confirm that:

1. The Department of Planning, Monitoring and Evaluation (DPME) has assessed the Socio-Economic Impact Assessment (SEIAS) Report as per the following:
 - * Initiating Department : Employment and Labour
 - * Name : Compensation for Occupational Injuries and Disease Amendment Bill
 - * Type of Assessment : Final Impact Assessment
2. The initiating department has been given feedback and incorporated all inputs as contained in the Final Socio-Economic Impact Assessment report.
3. Permission is granted to the Department to proceed with submission of the Compensation for Injuries and Disease Amendment Bill and the SEIAS Final Impact Assessment report to Cabinet.
4. Verified and signed off by SEIAS Unit:

Official Stamp and Date



3. In conclusion, summarize what should be done to reduce the costs, maximize the benefits, and mitigate the risks associated with the legislation. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more lines if required.
 - a. The costs can be reduced by ensuring that well designed rehabilitation programmes are implemented and best rehabilitation infrastructure is ensured in order to achieve the objectives of the bill.
 - b. Best monitoring tools should be sourced upfront.
 - c. Cost can also be reduced by securing buy-in from social partners so that all parties will be doing their part without too much policing that cost money. This can be achieved partly through educational campaigns by government and by employers and employees' unions.
 - d. Collaboration by government departments and agencies where shared objectives exists will also minimize implementation and monitoring costs.
 - e. Collaboration with stakeholders will have a major impact on preventing corruption if they all support the programmes and interventions.
4. Please identify areas where additional research would improve understanding of the costs, benefits and/or risks of the legislation.
 - Benchmark research will be needed and thereafter,
 - Continuous research will be needed to assess implementation and impact thereof.
5. For the purpose of building a SEIAS body of knowledge please complete the following:

Name of the Official: Tendani Ramulongo
Designation: Director
Unit: Research Policy and planning

Contact Details: 012 309 4231
Email address: tendani.ramulongo@labour.gov.za

5.3 How long did it take the department to complete this template?
Two Months, including consultative workshop and final report writing.

Socio-Economic Impact Assessment

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
Medical service providers	Prohibition of ceding their claims to third parties	<p>Campaigns to encourage Medical service providers to submit claims directly.</p> <p>Cost of implementing technology that allows for speedy payment of claims.</p>	Reduce fraud and corruption by third parties who buy claims from Doctors.	This will assist the Fund by creating a direct business-to-business with our stakeholders and clients by eliminating third parties

Socio-Economic Impact Assessment

- **No consultation of:**
 - **“Third parties”** – neither cessionaries nor administrators
 - **Private healthcare sector**
 - **Registered Credit Providers, Co-operative Financial Institutions, Registered Banks, Factoring Houses or other financial institutions**

*Public Hearing conducted in Port Elizabeth on
10 December 2018*

Presentation & Introduction to Parliament

**Clause 43 not included in presentation to Committee on
4 November 2020**

Committee Minutes / Reports

Report of the Portfolio Committee on Employment and Labour on an Oversight Visit to the Compensation Fund Head-Quarters, Dated 10 June 2020

Third-parties have been involved in the claims process for a long time. The involvement of the third-parties resulted from the inefficiencies of the Fund. The third-parties employed the previous employees of the Fund who knew the inefficiencies of the Fund and exploited them to the benefit of the third parties. The CF realised that uMehluko system was not what it needed, hence the introduction of Comp-Easy. The transition from uMehluko to Comp-Easy started on 1 October 2019. The uMehluko system was switched of but migration of data to the new system is ongoing. Therefore, there is currently one system that is operational. The DG explained that the current complaints from the third-parties are as a result of the leaks in the system being closed.

*The DG explained that **the purpose of introducing the Compensation for Occupational Injuries and Diseases (COID) Amendment Bill is to eliminate having to deal with third-parties in future.***

[Emphasis added]

What is and What isn't Cession?

Clause 43(4)

Amendment of section 73 of Act 130 of 1993

43. Section 73 of the principal Act is hereby amended by the addition of the following subsections:

“(3) Notwithstanding the provision of subsection (2) the medical practitioner may after the claim has been finalised or the period referred to in subsection (1) has lapsed, apply for reopening of the claim and payment of further medical costs. 45

(4) Any provision of any agreement existing at the commencement of this Act or concluded thereafter in terms of which a service provider cedes or purports to cede or relinquishes or purports to relinquish any rights to medical claim in terms of this Act, shall be void.”. 50

What does “cede” or “purports to cede” mean?

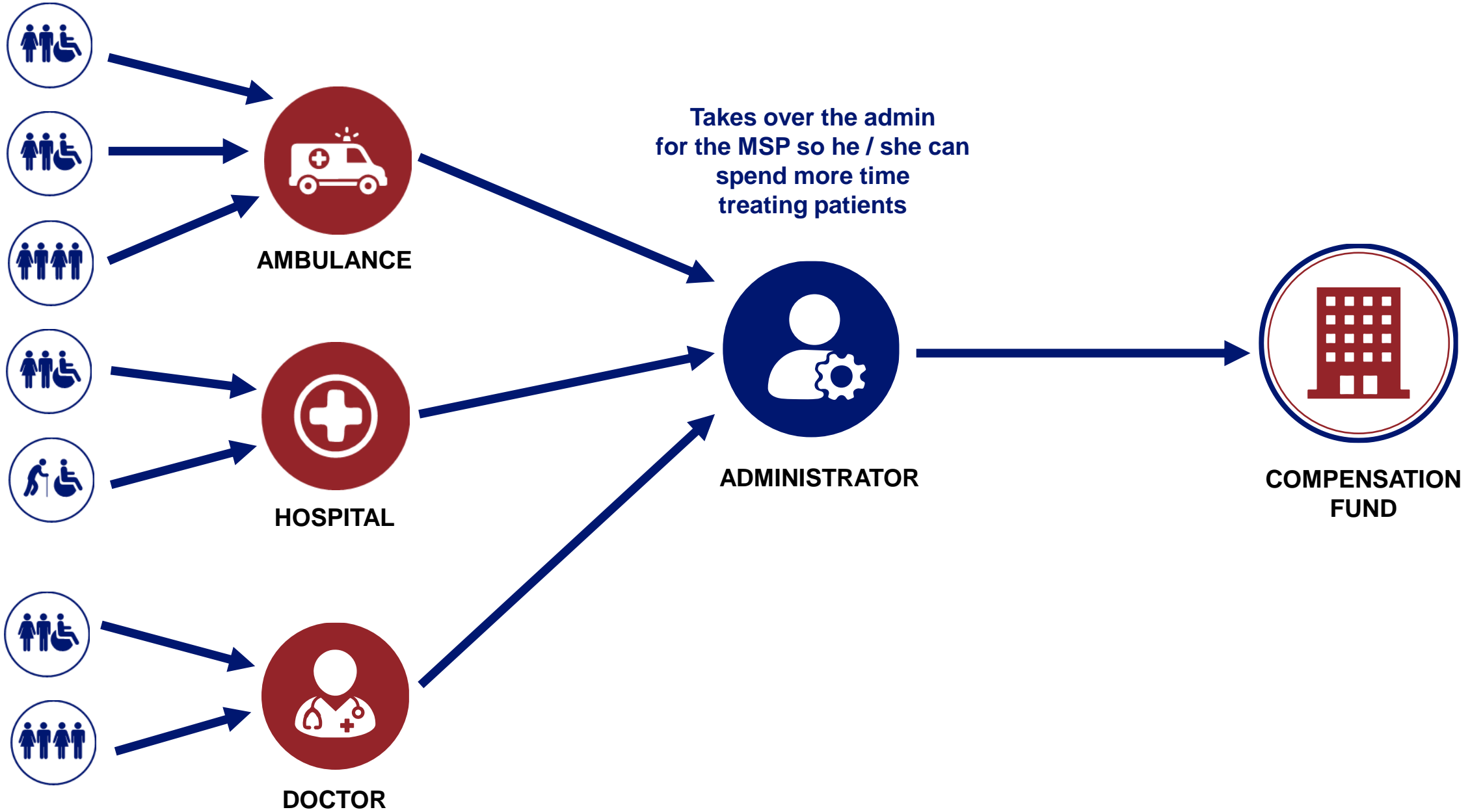
Cession is **AN ACT** whereby the **cedent (medical service provider)**

TRANSFERS RIGHTS (invoice) to the

Cessionary (Commercial Bank, registered financial services and credit provider or CompSol)

Simply the sale of a medical invoice
for services
ALREADY rendered

INJURED EMPLOYEES



Takes over the admin for the MSP so he / she can spend more time treating patients

AMBULANCE

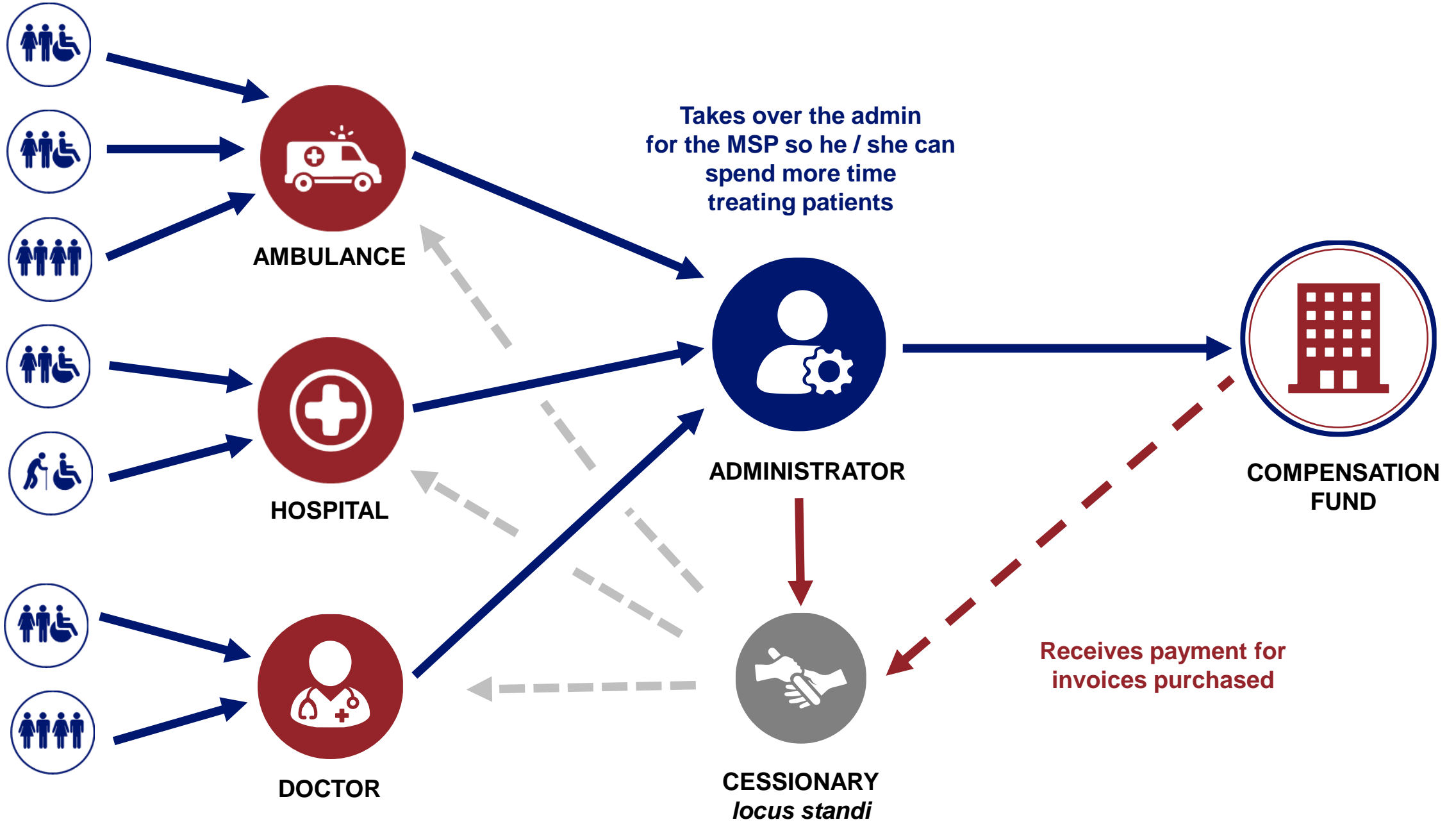
HOSPITAL

DOCTOR

ADMINISTRATOR

COMPENSATION FUND

INJURED EMPLOYEES



So what “rights” can one transfer or cede for an invoice (or “medical claim”)?

- ✓ **Ownership** of the invoice
- ✓ **To be paid** by the debtor (Compensation Fund) as if you were the cedent
- ✓ **To take legal action** against the debtor (*locus standi*) should the debtor not pay

BUT...

It seems like there is some confusion

Cession is NOT and DOES NOT...

- × **Prevent** the Compensation Fund from **interacting with its clients**
- × **Cause or increase** the risk of fraud
- × **Determine into whose bank account monies** for medical services administered **are to be paid**
- × **Impact the compensation benefits** received by the **injured employee**
- × **Result in additional costs** to the Compensation Fund
- × **Violate** any provisions of the **Health Professions Act**

Cession is NOT and DOES NOT...

- × Prevent the Compensation Fund from interacting with its clients

BUSINESS DAY ARTICLE:

OBJECTIONS TO PROPOSAL TO BAN THE TRANSFER OF MEDICAL CLAIMS

1 FEBRUARY 2021

*“However, the department of employment and labour has defended the proposal, saying it wants the Compensation Fund to work directly with clients **as all other insurance companies and medical aid schemes did.**”*

*“The department’s chief director of labour relations Thembinkosi Mkalipi said the Compensation Fund **dealing directly with its clients as other insurance companies and medical aid schemes do is in the best interests of workers, business and the fund.**”*

Cession is NOT and DOES NOT...

- × Prevent the Compensation Fund from interacting with its clients

**FINANCIAL MAIL ARTICLE:
NEW COMPENSATION BILL: A CURE OR AN INJURY? –
18 FEBRUARY 2021**

*Mafata tells the FM the fund “**does not have an issue with doctors using intermediaries** to submit their claims and medical bills.”*

Cession is NOT and DOES NOT...

- × Prevent the Compensation Fund from interacting with its clients

**FINANCIAL MAIL ARTICLE:
NEW COMPENSATION BILL: A CURE OR AN INJURY? –
18 FEBRUARY 2021**

*Mafata says the amendment **would not prohibit the use of third parties** to submit claims on behalf of clients and beneficiaries. "Our processes do allow for this, provided the third party or agent can **prove that they have been authorised to act on clients' behalf.**"*

Third-party administrators and practice managers are the accepted norm in the medical industry

Cession is NOT and DOES NOT...

- x Cause or increase the risk of fraud
- x Determine into whose bank account monies for medical services administered should be paid

**FINANCIAL MAIL ARTICLE:
NEW COMPENSATION BILL: A CURE OR AN INJURY? –
18 FEBRUARY 2021**

*Mafata tells the FM the fund "...[The reason] we won't pay into the account of third parties is to **eliminate fraud**. We want to pay the person who is our client, because we use verification systems and **sometimes these claims fail to satisfy our systems.**"*

Cession is NOT and DOES NOT...

- x Cause or increase the risk of fraud

**FINANCIAL MAIL ARTICLE: NEW COMPENSATION BILL:
A CURE OR AN INJURY? –
18 FEBRUARY 2021**

*Mafata says the amendment **would not prohibit the use of third parties** to submit claims on behalf of clients and beneficiaries. "Our processes do allow for this, provided the third party or agent can **prove that they have been authorised to act on clients' behalf.**"*

BankServ Africa verifications would not fail for authorised third parties

Cession is NOT and DOES NOT...

- ✘ **Impact the compensation benefits received by the injured employee**
- ✘ **Clause 43(4) regulates rights to a “medical claim” or medical invoice NOT employee compensation**
- ✓ **Section 33 of the COID Act ALREADY prohibits employee compensation cessions**

33. Cession or relinquishment of benefits void

Any provision of an agreement existing at the commencement of this Act or concluded thereafter in terms of which an employee cedes or purports to cede or relinquishes or purports to relinquish any right to benefits in terms of this Act, shall be void.

- ✓ **Mr Mafata noted this in the Portfolio Committee meeting on 19 February 2021**

Cession is NOT and DOES NOT...

- × **Impact the compensation benefits received by the injured employee**
 - × Clause 43(4) regulates rights to a “medical claim” or medical invoice

**FINANCIAL MAIL ARTICLE:
NEW COMPENSATION BILL: A CURE OR AN INJURY? –
18 FEBRUARY 2021**

*But what it would do is "ban the ceding of the right to benefits. **The person who is injured or the one who treated that person is the person the fund will pay.** Not a third party." He stresses that should an employer or a medical practitioner **elect to have a third party to submit claims on their behalf, "such claims are and will continue to be accepted [but] the fund will only pay into bank accounts of the client of the fund and not of a third party"**.*

Cession is NOT and DOES NOT...

- × **Result in additional costs to the Compensation Fund**

- ✓ Mr Mafata confirmed that costs are paid by the Medical Service Providers themselves - Portfolio Committee meeting on 19 February 2021

BUSINESS DAY ARTICLE:

***OBJECTIONS TO PROPOSAL TO BAN THE TRANSFER OF MEDICAL CLAIMS –
1 FEBRUARY 2021***

*There is no need to incur **additional costs** by involving third-parties in the claims process, Mkalipi said, adding that the fund not [not] operating optimally is a separate issue.*

REMEMBER:

Cession is an “Act” (by a medical service provider)

Cession is NOT and DOES NOT...

- × Violate any provisions of the Health Professions Act

**FINANCIAL MAIL ARTICLE:
NEW COMPENSATION BILL: A CURE OR AN INJURY? –
18 FEBRUARY 2021**

*Also, in terms of the Health Professions Act, **medical practitioners are prohibited from sharing their fees** with other parties, "so we are **trying to improve issues of compliance as well**", says Mafata.*

Cession is NOT and DOES NOT...

- × **Violate any provisions of the Health Professions Act**

The Executive Committee of the Medical and Dental Professions Board of the Health Professions Council of South Africa resolved that –

*RESOLVED that the resolution of December 2002 by the Executive Committee be confirmed, namely that Dr R Williams be informed that it would **be permissible for book debts to be ceded to financial institutions other than banks**, subject thereto that such cession of book debts would fully comply with the ethical requirements of the Board as set out in the resolution marked MDB, March 2000, Item 54.*

MDB, March 2003, Item 54

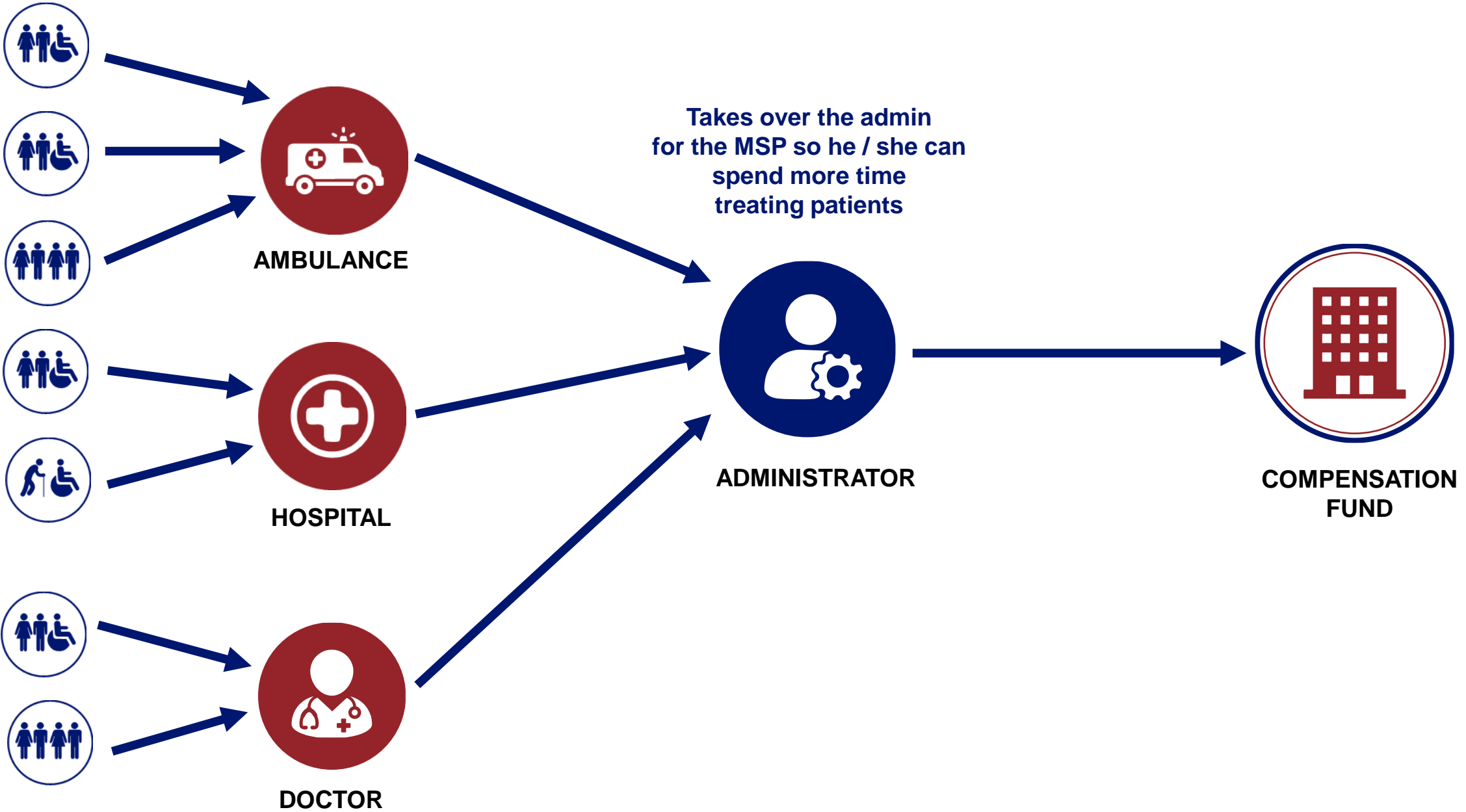
[Emphasis added]

Internal Controls vs Legislation Amendments

Amending Legislation to manage Internal Controls

- ✓ **Clause 43(4) does not prohibit “third parties”**
 - ✓ Practice managers / third parties may continue to work with the Fund
 - ✓ Sufficient and appropriate authorisation should be obtained

INJURED EMPLOYEES



Amending Legislation to manage Internal Controls

- ✓ Risks identified by the Fund (e.g. Fraud, corruption) should be addressed:
 - ✓ A system of well established preventative, corrective and detective controls
 - ✓ A strong control environment with general and application (e.g. SAP) controls
 - ✗ Annual Report 2020 – Disclaimer of Opinion
 - ✗ 2021 / 2022 – Annual Performance Plan
- ✗ **NOT legislative amendments**

What are the legal impacts of Clause 43(4)?

- × Preventing ownership / transfer / disposal of invoice assets – unconstitutional
- × Preventing legal action from being instituted against the Compensation Fund by third party aggregators

A single party with specialist administrative experience

vs

**Thousands of doctors
diverting time away from seeing patients**

INJURED EMPLOYEES



AMBULANCE



HOSPITAL



DOCTOR



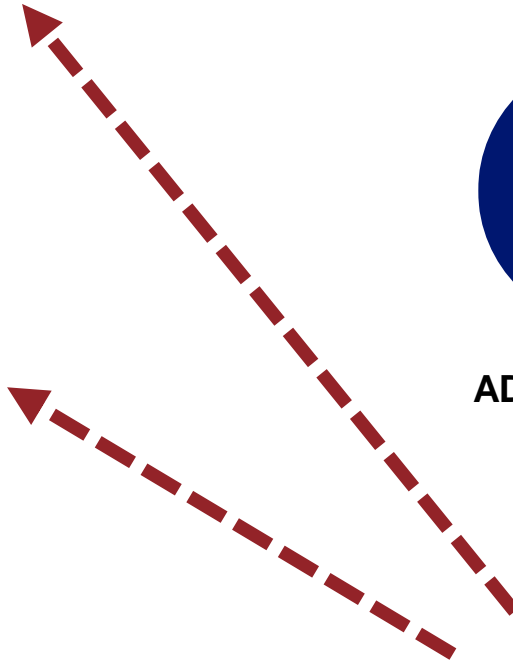
ADMINISTRATOR



CESSIONARY
locus standi



COMPENSATION
FUND



Receives payment for
invoices purchased

Constitutionality and Legality

Constitutionality & Legality

Clause 43(4) violates at least the following Constitutional rights:

- × Right to property (Section 25)**
- × Freedom of trade, occupation, and profession (Section 22)**
- × Right of access to courts (Section 34)**

Right to Property

Section 25(1):

- *“No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.”*

Right to Property

- **Medical invoices** (accounts) are the **life blood** of any practice
- Medical invoices are the **surety** required by financial institutions to secure working capital / cash flow (similar to using your house as collateral to obtain a bond)
- **Clause 43(4) will prevent medical service providers to use their invoices as collateral for financing of working capital which infringes on their rights to property.**

Right to Property

- Clause 43(4) intends to abolish cession with **retroactive effect**
- This would deprive them of finances already secured

Right to Property

- **No clear sufficient reason** was brought for clause 43(4) that can rationalize why medical service providers may be deprived of their property or the ability to transact with it
- **No public interest** has credibly been proven to justify limiting medical service providers' right to property
- Case law found that an **appropriate** relationship must be found between :

Rational Public Purpose
VS
Private Harm Caused

- If not, its **arbitrary deprivation and unconstitutional**

Right to Property

*“The idea is not to protect private property from all state interference but rather to safeguard it from **illegitimate and unfair state interference.**”*

Reflect-All 1025 CC v MEC for Public Transport, Roads and Works, Gauteng Provincial Government 2009 (6) SA 391 (CC) para 33

[Emphasis added]

Freedom of Trade, Occupation & Profession

Section 22:

- *“Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.”*

Freedom of Trade, Occupation & Profession

- Clause 43(4) intended to limit the medical service provider's right with **what they may do** with their medical accounts for services already rendered
- Purports to **govern** and control the economic rights of a medical service provider

Limitation only valid in terms of section 36 if:
“reasonable and justifiable in an open and democratic society”

Freedom of Trade, Occupation & Profession

36. Limitation of rights

1. *The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including*
 - a. *the nature of the right;*
 - b. *the importance of the purpose of the limitation;*
 - c. *the nature and extent of the limitation;*
 - d. *the relation between the limitation and its purpose; and*
 - e. *less restrictive means to achieve the purpose.*

Freedom of Trade, Occupation & Profession

Justification of clause 43(4):

- Eliminate having to deal with third-parties in future
- Third party cessions cause or increase risk and fraud
- Public and Fund's interest
- Administrators and intermediaries may continue to represent doctors
- **No fraud** proven or prosecuted against any of the third party cessionaries
- **No public interest** proven in any way and limited stakeholder engagement (SEIA and lack of consultation with medical sector)

Freedom of Trade, Occupation & Profession

- **No justification for the limitation of Section 22**
- **Less restrictive measures can be put into place**
- **No legitimate connection between the purposes identified in the Bill and the prohibition of cession of medical accounts**
- **Is irrational**

Right of Access to Courts

Section 34:

- *“Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.”*

Right of Access to Courts

- Will prevent medical account cessionaries to access the courts
- Result in the Fund no longer being held judicially accountable –which is not in public interest
- **Legal challenges are important as they create pressure on all parties in the value chain to fulfil their mandate – either contractual in the case of medical account cessionaries, or constitutional mandate and legal obligations in the case of the Fund.**

**Nothing has been proven to be in public
interest**

No rationale for Clause 43(4)

**No justification for the limitation of
Constitutional rights**

CLOSING

Keeping Clause 43(4)

“Cession Prohibition”

RSA STAKEHOLDERS

NO BENEFITS

(Employers, Injured workers, Unions, Employer Associations, Medical Service Providers, Professional Associations, Suppliers of Working Capital)

COMPENSATION FUND

**PREVENT
AGGREGATE
LEGAL ACTION**

Removing Clause 43(4)

“Cession Prohibition”

RSA STAKEHOLDERS

- **Support to employers and treatment to injured workers**
- **Enhance “back-to-work”** program
- **Willing and able** medical service provider network
- **Sustainability** of medical practices
- **Security** to financial service providers

COMPENSATION FUND

- **Support to employers and treatment of injured workers**
- **Simplified** administration
- 99.9% of **fraud eliminated**
- Willing private medical sector
- **Support “Back-to-work”** program
- **Positive contribution** to economy
- **No delay** in getting **domestic workers integrated**
- Acting within the legal framework of the **Constitution**

Honourable Members of the Employment and
Labour Committee –

**Please do the right thing
for our country and its people
remove Clause 43(4)
from the Bill**