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## GENERAL NOTICE

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### GENERAL NOTICE 282 OF 2011

#### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

#### INVITATION FOR PUBLIC COMMENTS

##### ON

- A: THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 : REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN RESPECT OF BASIC EDUCATION**
- B: THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 : REGULATIONS RELATING TO ASSISTANCE TO VICTIMS IN RESPECT OF HIGHER EDUCATION AND TRAINING**
- C: THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 : REGULATIONS RELATING TO MEDICAL BENEFITS FOR VICTIMS**

#### 1. INVITATION

- 1.1 The Department of Justice and Constitutional Development invites interested parties to submit written comments on the proposed draft Regulations which are attached hereto as Annexures A, B and C. The draft Regulations and a note, explaining the background of the proposed regulations, are also available on the website of the Department at the following address: <http://www.justice.gov.za>.
- 1.2 The comments on the draft Regulations must be submitted not later than **8 June 2011**, marked for the attention of **Ms F Bhayat** or **Ms I Botha**, and –
- (a) if they are forwarded by post, be addressed to –  
**The Director-General: Justice and Constitutional Development**  
**Private Bag X81**  
**Pretoria**  
**0001**
  - (b) if they are delivered by hand, be delivered at –  
**Momentum Building, Room 9.34, East Tower**  
**329 Pretorius Street**  
**Pretoria**
  - (c) if they are delivered by email, be emailed to [fbhayat@justice.gov.za](mailto:fbhayat@justice.gov.za) or [inbotha@justice.gov.za](mailto:inbotha@justice.gov.za)
  - (d) if they are faxed, be faxed to **086 754 8493** or **086 648 2289**
- 1.3 For further information, please do not hesitate to contact Ms F Bhayat at 012 315 1480 or Ms I Botha at 012 315 1702.

#### 2. BACKGROUND NOTE

The following background information is hereby furnished in order to assist interested parties to comment on the proposed regulations.

- 2.1 The Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995) (the Act), established the Truth and Reconciliation Commission (the TRC). The Act, among others, mandated the TRC to make recommendations to the President with regards to the policy which should be followed or measures which should be taken relating to the granting of reparation to victims or the taking of other measures aimed at rehabilitating and restoring the human and civil dignity of victims. The TRC completed its mandate, whereafter it was dissolved.
- 2.2 In compliance with section 27 of the Act, a joint committee was established to consider the recommendations of the TRC regarding reparation to victims. The decisions of the joint committee were approved by Parliament. The decisions of the Joint Committee are dealt with under the following four headings : Symbols and monuments; rehabilitation of communities; medical benefits and other forms of social assistance; and final reparation. In terms of section 27 of the Act, these decisions must be implemented by the President by making Regulations. All amounts payable to victims by way of reparation must be provided for in the Regulations and must be paid from the President's Fund, which was established in terms of the Act. The attached Regulations fall within the scope of "medical benefits and other forms of social assistance", which includes educational assistance.

**ANNEXURE C  
GOVERNMENT NOTICE**

**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

**No. R.**

**2011**

**PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995  
REGULATIONS RELATING TO MEDICAL BENEFITS FOR VICTIMS**

The President has, under section 27(2) of the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995), and after the procedures prescribed in sections 4(f)(i) and 27(1) and (2) of the said Act were complied with, made the Regulations in the Schedule.

**SCHEDULE  
CHAPTER I: GENERAL PROVISIONS**

**Definitions**

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates—

“**accounting officer**” means the officer appointed by the Minister under section 42(6) of the Act as accounting officer of the Fund;

“**days**” means every day of the week, excluding week-ends and public holidays;

“**dedicated official**” means an official in the Department of Justice and Constitutional Development designated by the Director-General of that Department to perform the duties and exercise the powers conferred upon the official in terms of these Regulations;

“**Department of Health**” means the Government department responsible for health at national level;

“**Director-General**” means the Director-General of the Department of Health;

“**Fund**” means the Fund established under section 42(1) of the Act;

“**fund administrator**” means the officer designated by the Minister under section 42(5) of the Act;

“**head of a health establishment**” means the person in charge of a health establishment;

“**health establishment**” means a health establishment as defined in section 1 of the National Health Act;

“**health services**” means health services as defined in section 1 of the National Health Act;

“**listed victim**” means a person who has been identified as a victim in Volume 7 of the Truth and Reconciliation Commission of South Africa Report;

“**medical benefit**” means health services provided for in the National Health Act;

“**Minister**” means the Minister of Justice and Constitutional Development;

“**relative of a listed victim**” means—

- (a) a parent of, or somebody who exercises or exercised parental responsibility over a listed victim;
- (b) a person married to a listed victim under any law, custom or belief;
- (c) a child of a listed victim, irrespective of whether the child was born in or out of wedlock or was adopted; or
- (d) any other person to whom a listed victim has or had a legal or customary duty to support;

**"the Act"** means the Promotion of National Unity and Reconciliation Act, 1995 (Act No. 34 of 1995);

**"the National Health Act"** means the National Health Act, 2003 (Act No. 61 of 2003);

**"the Standard Treatment Guidelines"** means the guidelines issued by the Cabinet member responsible for health in terms of section 3 of the National Health Act; and

**"the Uniform Patient Fee Structure"** means the fee structure approved by the Cabinet member responsible for health in terms of section 41 of the National Health Act.

### **Authority responsible for application of Regulations**

2. The Director-General is responsible for the application of these Regulations.

### **Persons who may request medical benefits**

3. (1) (a) A listed victim or a relative of a listed victim who is in need of health services may, subject to paragraph (b), request medical benefits provided for in these Regulations.

(b) A relative of a listed victim may only request medical benefits if, at the date of the request —

- (i) the listed victim is alive and the relative is dependent financially on the listed victim; or
- (ii) the listed victim is deceased and the relative is dependent financially on another person.

(2) The following persons may request medical benefits on behalf of a listed victim or a relative of a listed victim:

- (a) A person who exercises parental responsibility over a listed victim or a relative of a listed victim;
- (b) a health care provider as defined in section 1 of the National Health Act;
- (c) a health worker as defined in section 1 of the National Health Act; and
- (d) any other person, including a curator and a curator ad litem, who has been appointed in terms of any legislation to act on behalf of a person who is a listed victim or a relative of a victim.

## **CHAPTER II: MEDICAL BENEFITS**

### **Forms of medical benefits**

4. (1) Medical benefits in the form of health services must be rendered to listed victims and relatives of listed victims by health establishments without having to make any payment.

(2) The health services must be rendered in line with the Standard Treatment Guidelines.

#### **Request for medical benefits**

5. (1) A request for medical benefits referred to in regulation 3 must be made on Form 1 of the Annexure.

(2) Form 1 must be completed and signed by the requester in order to be processed.

(3) A listed victim or a relative of a listed victim who requests medical benefits or a person referred to in regulation 3(2) who requests medical benefits on behalf of a listed victim or a relative of a listed victim must complete the certificate contained in Part C of Form 1.

(4) The documents required in Form 1 must be attached to the form.

(5) Form 1 must be available at the office of the dedicated official and at all health establishments.

(6) The head of the health establishment must—

(a) assist a person in completing Form 1; and

(b) ensure that Form 1 is completed properly.

#### **Processing of request**

6. (1) (a) The head of the health establishment must, after Form 1 has been completed, submit the form per facsimile to the dedicated official for verification as provided for in subregulation (4).

(b) The head of the health establishment may submit the completed Form 1 to the dedicated official in any other manner he or she deems fit but with due regard to the time period provided for in subregulation (5) within which the dedicated official must verify the request.

(c) The head of the health establishment must make enquiries from the dedicated official regarding the receipt of Form 1.

(2) The head of the health establishment must ensure that the necessary health services are rendered to the listed victim or relative of the listed victim despite the fact that the dedicated official must still verify the request.

(3) On receipt of the completed Form 1, the dedicated official must obtain any further information or documentation or clarify any uncertainties with regard to the information in Form 1.

(4) The dedicated official must—

(a) satisfy himself or herself that the requester is a listed victim or a relative of the listed victim as contemplated in regulation 3(1);

(b) satisfy himself or herself that the requirements contained in regulation 3(1)(b) have been complied with; and

(c) where medical benefits are requested on behalf of a listed victim or a relative of a listed victim, satisfy himself or herself that—

(i) the request is made by a person referred to in regulation 3(2); and

(ii) the person on whose behalf the medical benefits is requested, is a listed victim or a relative of the listed victim.

(5) (a) The dedicated official must, within 3 days after having

received Form 1, report back to the head of the health establishment in question, in writing, on Part D of Form 1, about his or her findings on the verification of the request.

(b) The dedicated official may submit Form 1 in any manner he or she deems fit to the head of the health establishment in question but must keep record of the manner in which the form was submitted and must make enquiries about the receipt of the form by the head of the health establishment.

### **Financial aspects relating to payment**

7. (1) The head of the health establishment must submit to the dedicated official the invoices relating to the health services rendered in respect of a listed victim or a relative of a listed victim within 7 days after the health service was rendered.

(2) An invoice must be accompanied by supporting documents, as determined by the Fund Administrator.

(3) The dedicated official must, upon receipt of an invoice—

- (a) check the calculations;
- (b) check whether he or she has submitted a verification report, referred to in regulation 6(5), in respect of the person concerned;
- (c) check whether the invoice relates to the rendering of health services to a victim or a relative or a dependant of a victim; and
- (d) check whether the expenses are in line with the Standard Treatment Guidelines and the Uniform Patient Fee Structure.

(4) The dedicated official may request further information from the head of the health establishment in question relating to the invoices submitted.

(5) The dedicated official must, after having complied with subregulation (3), and if satisfied that the amount claimed in an invoice is in respect of health services rendered to a listed victim or a relative of a listed victim, submit the invoice with a recommendation to the fund administrator for authorisation and payment of the invoice.

(6) The fund administrator may request from the dedicated official and the head of the health establishment further information about the invoice and the health services rendered.

(7) The fund administrator must make electronic payments from the Fund to the provincial department of health in respect of the health services rendered to listed victims and relatives of listed victims.

(8) (a) The fund administrator must, in writing, notify the dedicated official about any payments made to a health establishment in connection with health services rendered in respect of a listed victim or a relative of a listed victim.

(b) The dedicated official must, upon receipt of the notice from the fund administrator, inform the head of the health establishment in question about the payment.

(9) The accounting officer may, at any time, request information from the Director-General or a head of a health establishment relating to the rendering of health services to a listed victim or a relative of a listed victim or payments made or to be made in this regard.

### CHAPTER III: MISCELLANEOUS

#### Keeping of records by dedicated official and head of health establishment

8. (1) The dedicated official and the head of a health establishment involved in a request for medical benefits must keep proper record of –

- (a) the requests received for medical benefits;
- (b) information received in connection with the requests;
- (c) documents received in support of the requests;
- (d) reports submitted in terms of these Regulations;
- (e) payments made or received in terms of these Regulations; and
- (f) health services rendered in respect of listed victims and relatives of listed victims.

(2) The dedicated official must monitor the expenses incurred in respect of the health services rendered by the health establishments to listed victims and relatives of listed victims and, on a regular basis, report thereon in writing to the accounting officer and the fund administrator.

(3) The dedicated official must compile a register containing the following particulars in respect of every request for medical benefits received in terms of these Regulations:

- (a) The name of the requester;
- (b) the name of the listed victim or relative of the listed victim if a person other than the listed victim or relative of the listed victim has requested the benefits;
- (c) the outcome of the verification done in terms of regulation 6(4);
- (d) the amounts reflected in the invoices received in connection with the health services rendered; and
- (e) the amounts paid in respect of invoices received and the date of payment.

(4) The dedicated official must update the register provided for in subregulation (3) at least once a week.

#### Reports by head of health establishments on health services rendered

9. (1) The head of a health establishment must, in respect of a listed victim or a relative of a listed victim to whom health services are rendered on a continuous or regular basis, submit quarterly reports, in writing, to the dedicated official regarding the services rendered.

(2) The report to the dedicated official must contain the following information:

- (a) The name of the listed victim or relative of the listed victim receiving the service;
- (b) the nature of the service rendered;
- (c) the estimated duration of the service to be rendered;
- (d) any specialised services which may probably be required in future; and
- (e) any other information which has a bearing on the duration of the health services and the expenses related thereto.

#### Short title and commencement


10. (1) These Regulations are called the Regulations relating to Medical Benefits for Victims, 2011.

(2) These Regulations come into operation on ..... 2011.

# ANNEXURE

## PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, 1995 REGULATIONS RELATING TO MEDICAL BENEFITS FOR VICTIMS

### FORM 1 [Regulation 5]

REQUEST FORM FOR MEDICAL BENEFITS	
<p><b>READ THIS FIRST</b></p> <p style="text-align: center;"></p> <p><b>This request form may only be used if :</b></p> <p>- <b>you have been identified as a victim</b> by the Truth and Reconciliation Commission (TRC) because you have suffered harm physically or mentally or emotionally or financially or your human rights have been grossly violated as a result of the conflicts of the past and your name has been listed in Volume 7 of the Truth And Reconciliation Commission of South Africa Report</p> <p>or</p> <p>- <b>you are a relative</b></p>	<p><b>A.I DETAILS OF PERSON WHO REQUESTS MEDICAL BENEFITS</b></p> <hr/> <p>1. Are you a listed victim? <b>YES/NO</b></p> <p style="text-align: center;"><b>Or</b></p> <p>Are you a relative of a listed victim? <b>YES/NO</b></p> <p>2. If you are a relative of a listed victim, give particulars of the listed victim and indicate your relationship with the listed victim</p> <p>.....</p> <p>(Insert the name, surname and ID number of the listed victim)</p> <p>.....</p> <p>(State above your relationship with the listed victim, e.g: parent, spouse, child)</p> <p><i>(Attach proof that you are the parent or child or spouse of the listed victim. The proof may include a copy of your identity document or an affidavit by someone who can confirm that you are the parent of the listed victim, or a copy of your birth certificate or a marriage certificate.)</i></p> <p>3. If you are a relative of the listed victim, are you supported by the victim? <b>YES/NO</b></p> <p>4. If you are a relative and are supported by the listed victim, give details confirming the support you receive?</p> <p>.....</p> <p><i>(Attach proof that the listed victim supports you. The proof may include an affidavit by someone who can confirm that you are supported by the listed victim, and /or receipts / invoices as proof of payments having been made by the listed victim.)</i></p>



<p><b>of an identified victim, and wish to request medical benefits in the form of health services</b></p> <p><b>Remember</b> to attach documents confirming the information given in this form, for example, certified copies of an identity book and the letter from the TRC indicating that you are a listed victim, if applicable.</p>	<p>5. Title: ..... (Mr, Miss, Mrs, Dr)</p> <p>6. Disabilities: <b>YES/NO</b> If yes, give details .....</p> <p>7. Gender: <b>Male/Female</b></p> <p>8. Surname: .....</p> <p>9. First Names: .....</p> <p>10. ID number: .....</p> <p>11. Date of birth: .....</p> <p>12. Contact details: <i>(State below the address where you live and to which mail may be sent. If you do not have an address, state who is the best other person to contact, e.g. place of worship, school, community leader, etc.)</i> Home address: ..... ..... .....</p> <p>13. Contact details of other person (if applicable): ..... ..... Postal address : <i>(State below the address to which mail may be sent. If you do not have a postal address, state who is the best other person to contact, e.g. place of worship, school, community leader, etc.)</i> ..... .....</p> <p>14. Contact details of other person (if applicable): ..... ..... Telephone Numbers: Home: .....  (Area code and no – for example (012 – 3173908) Work: ..... (Area code and no – for example (012 – 3170934) Cell no: .....</p> <p>Signature of listed victim / relative of listed victim</p> <p>Date :</p>
<b>Complete</b>	<b>A.II DETAILS OF PERSON REQUESTING</b>

this part only if you are requesting assistance on behalf of another person. Indicate here the details of the person who is to receive the assistance.

### MEDICAL BENEFITS (REQUESTER) ON BEHALF OF A LISTED VICTIM OR RELATIVE OF A LISTED VICTIM

1. Is the person on whose behalf you are requesting medical benefits :  
A listed victim? ☐ YES ☐ NO  
Or  
A relative of a listed victim? ☐ YES ☐ NO
2. State the full names and ID number of the person on whose behalf you are requesting medical benefits:  
.....
3. If the person is a relative of a listed victim, what is the person's relationship with the listed victim (e.g: parent, spouse, child) : .....  
(Attach proof that the person on whose behalf you are applying, is the parent, child or spouse of the listed victim. The proof may include a copy of the person's identity document or an affidavit by someone who can confirm that the person is the parent of the listed victim, or a copy of the person's birth certificate or a marriage certificate.)
4. If the person is a relative of the listed victim, is he or she supported by the listed victim: ☐ YES ☐ NO
5. If the person is a relative and is supported by the listed victim, give details about the support:  
.....  
(Attach proof that the listed victim supports the person. The proof may include an affidavit by someone who can confirm that the person is supported by the listed victim, and /or receipts / invoices as proof of payments having been made by the listed victim.)
6. Gender: ☐ Male ☐ Female
7. Does the person on whose behalf you are requesting medical benefits have any disability: ☐ YES ☐ NO  
If yes, give details: .....  
.....
8. State your relationship with the person on whose behalf you are

	<p>requesting medical benefits:</p> <p>.....</p> <p><b>9. Surname of requester:</b></p> <p>.....</p> <p><b>10. First Names of requester:</b></p> <p>.....</p> <p><b>11. ID number of requester:</b> ... ..</p> <p>.....</p> <p><b>12. Date of birth of requester:</b></p> <p>.....</p> <p><b>13. Contact details of the requester :</b> <i>(State below the address where the requester lives. If he or she does not have an address, state who is the best other person to contact, e.g. place of worship, school, community leader, etc.)</i></p> <p>Home address of requester:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Name and contact details of other person (if applicable):</p> <p>.....</p> <p>.....</p> <p>Postal address of requester: <i>(State below the address to which mail may be sent. If he or she does not have an address, state who is the best other person to contact, e.g. place of worship, school, community leader, etc.)</i></p> <p>.....</p> <p>.....</p> <p>Contact details of other person (if applicable): ... ..</p> <p>.....</p> <p><b>14. Telephone Numbers of requester :</b></p> <p>Home: ..... (Area code and no – for example (012 – 3173908)</p> <p>Work: ..... (Area code and no – for example (012 – 3170934)</p> <p>Cell no: ..... .....</p> <p>Signature of requester Date :</p>
<p><b>This part must be completed.</b></p>	<p><b>B. PARTICULARS OF MEDICAL CONDITION AND MEDICAL BENEFITS REQUIRED</b></p> <hr/> <p><b>1. Year in respect of which medical benefits is requested:</b> ... ..</p> <p><b>2. Have medical benefits in terms of these Regulations</b></p>

<p><b>Give particulars of your/ the victim or relative of the victim's medical condition so that appropriate health services can be rendered.</b></p>	<p>been granted previously? <b>YES/NO</b></p> <p>If yes, give details of the treatment received:</p> <p>.....</p> <p>.....</p> <p>3. Please provide full details of the medical condition of the victim or the relative of the victim in respect of which medical benefits are requested:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p><i>(If you are able to, please attach any supporting documents which will help to consider appropriate treatment. Documents such as medical reports will assist.)</i></p> <p>4. In the case of a listed victim, provide information about the incident in which the victim was involved and the harm suffered as a result of the conflicts of the past, which information served as the basis on which the TRC identified the person as a victim:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>(The above information is required to determine whether the person requesting medical benefits is a listed victim or a relative of a listed victim)</p> <p>5. Please provide full details of the treatment required or current treatment, if any?</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Signature of requester Date :</p> <p>Signature of person on whose behalf assistance is requested Date :</p>
	<p><b>C. CERTIFICATION</b></p> <p>I, ....., hereby certify that the information which I have provided above is correct and to the best of my knowledge true. I hereby give permission to the Department of Health and / or the TRC unit to make any necessary contacts to check my statements. I know that I can be prosecuted if I knowingly give false information.</p>

	<p>_____ Signature of the listed victim / relative of listed victim (where person is able to affix signature)</p> <p>_____ Signature of requester (if person requests medical benefits on behalf of listed victim / relative of listed victim) Date :</p>																
	<p><b>D. VERIFICATION SECTION BY TRC UNIT <i>to be completed by the TRC Unit</i></b> Please submit the completed form to the TRC Unit at:</p> <p>(a) c/o: The Department of Justice and Constitutional Development, Momentum Building, Corner of Pretorius and Prinsloo Streets, Pretoria, 0182; or (b) Private Bag X81, Pretoria, 0001; or (c) Fax : 012 - 3578570</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 75%;"><b>TRC reference check</b></td> <td style="width: 25%;"><b>Yes/no</b></td> </tr> <tr> <td><b>TRC reference number of listed victim</b></td> <td>... ..</td> </tr> <tr> <td><b>Additional documents / Information received</b></td> <td><b>Yes/no</b></td> </tr> <tr> <td><b>The requester is a listed victim</b></td> <td><b>Yes/no</b></td> </tr> <tr> <td><b>The requester is a relative of a listed victim</b></td> <td><b>Yes/no</b></td> </tr> <tr> <td><b>The requester is dependent on the listed victim</b></td> <td><b>Yes/no</b></td> </tr> <tr> <td><b>The requester is dependent on another person</b></td> <td><b>Yes/no</b></td> </tr> <tr> <td><b>The request is being made by an approved person on behalf of the listed victim or relative of the listed victim</b></td> <td><b>Yes/no/Not applicable</b></td> </tr> </table> <p><b>REMARKS BY DEDICATED OFFICIAL :</b></p> <p>..... ..... ..... .....</p> <p>..... (Name and surname of person verifying request)</p> <p>..... (Signature of person verifying request)</p> <p>..... (Date of verification of request)</p>	<b>TRC reference check</b>	<b>Yes/no</b>	<b>TRC reference number of listed victim</b>	... ..	<b>Additional documents / Information received</b>	<b>Yes/no</b>	<b>The requester is a listed victim</b>	<b>Yes/no</b>	<b>The requester is a relative of a listed victim</b>	<b>Yes/no</b>	<b>The requester is dependent on the listed victim</b>	<b>Yes/no</b>	<b>The requester is dependent on another person</b>	<b>Yes/no</b>	<b>The request is being made by an approved person on behalf of the listed victim or relative of the listed victim</b>	<b>Yes/no/Not applicable</b>
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