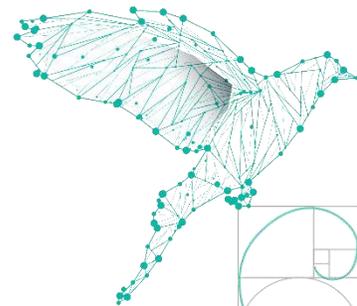


# GEMS Presentation to The Investigation Panel

## Section 59 Investigation

28 January 2020



Working towards a healthier you

# GEMS Presenters

<b>1</b>	<b>Scheme Introduction</b>	<b>Dr Guni Goolab</b>
<b>2</b>	<b>Context of GEMS response to s59 Investigation</b>	<b>Dr Stan Moloabi</b>
<b>3</b>	<b>Evidence on how GEMS and administrator perceives and manages FWA</b>	<b>Dr Solly Motuba and Mr Ishmael Mogapi</b>
<b>4</b>	<b>GEMS interpretation and implementation of section 59(2) and 59(3) of the Act; Regulations 5 and 6 of the Regulations</b>	<b>Ms Anita du Toit</b>
<b>5</b>	<b>Independent analysis and response to Racial Discrimination in Identifying Fraud, Waste and Abuse report by Dr Zaid Kimmie</b>	<b>Mr Craig Getz and Prof Paul Fattie</b>
<b>6</b>	<b>Conclusion and Recommendations</b>	<b>Dr Stan Moloabi</b>

# Cabinet Mandate

*“The state as an employer seeks to ensure that there is adequate provisioning of healthcare coverage to public service employees that is efficient, cost-effective and equitable”*



# GEMS Vision, Mission and Values



# MSA 131 of 1998 as amended: Business of a Medical Scheme

**In accordance with the Medical Schemes Act No 131 of 1998 as amended:  
the “business of a medical scheme” means the business of undertaking liability in return  
for a premium or contribution-**

- (a) to make provision for the obtaining of any relevant health service;
- (b) to grant assistance in defraying expenditure incurred in connection with the rendering of any relevant health service; and
- (c) where applicable, to render a relevant health service, either by the medical scheme itself, or by any supplier or group of suppliers of a relevant health service or by any person, in association with or in terms of an agreement with a medical scheme;

# Introduction and Background

**GEMS is a restricted medical scheme that commenced operations on 1 January 2006**

## Options

- Tanzanite One (Sapphire)
- Beryl
- Ruby
- Emerald, Emerald Value (efficiency discounted option based on Emerald option)
- Onyx

## Membership

- Second largest medical scheme with over 1.8 million beneficiaries and 726 621 principal members

## Objective

- Seeks to ensure that public service employees and their families get the best healthcare at affordable rates

# GEMS Outcome and Impact

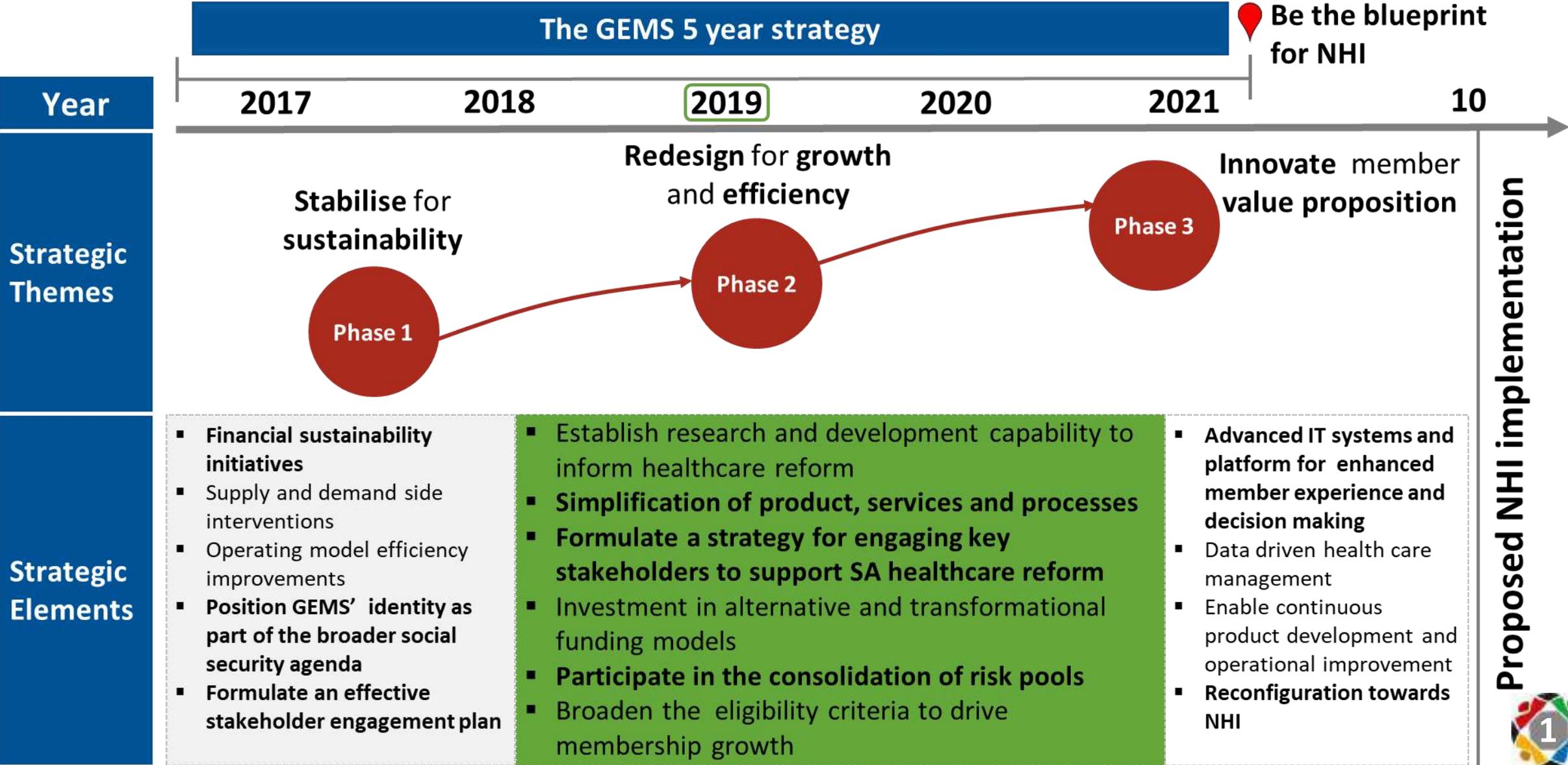
## GEMS contribution

- Reduced public sector patient load and a reduction in the demand on the public sector's resources
- Been influential in the healthcare industry by providing adequate healthcare coverage to public service employees that is not only efficient but also cost-effective and equitable
- Curbed the problem of its members paying excessive amounts of money but not getting the best value for their money
- **In excess of 1 million GEMS beneficiaries did not previously belong to a medical scheme**

# GEMS Strategic Journey

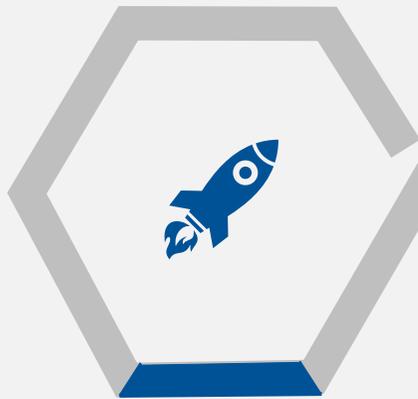


# 2017-2021 GEMS' strategy journey in the context of NHI



# GEMS Strategic Journey

The Scheme has made significant progress in implementing the 5-year strategy



## Strategy

- Phase 1  
Stabilise for sustainability
- **Phase 2**  
**Redesign for growth and efficiency**



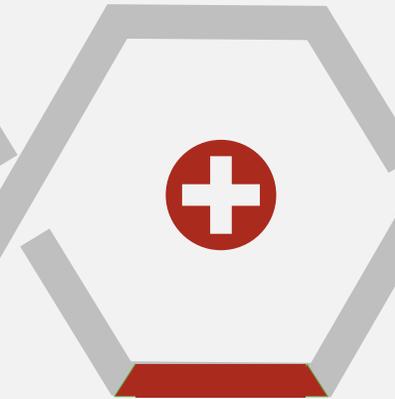
## Service

- Highest number of compliments
- **Lowest number of complaints**
- Membership growing



## Governance

- Active stakeholder engagement
- Effective combined assurance
- **Unqualified audit**
- Ethical leadership



## Healthcare

- Pay more PMB's than schemes with worse profiles
- Above industry average for 79% of health indicators



## Finance

- Pay more PMBs
- **2019 Reserve ratio 31.2%**
- Accumulated funds R13 billion
- Lowest NHC

# GEMS is a transformative organisation

The multi-party administration model was innovated and introduced by GEMS to the industry based on the requirement for expanding B-BBEE as such enabling more entities to contract with GEMS and expanding the pool of capable service providers.

## Policy Principles

- Drive the country's transformational agenda in GEMS' sphere of influence
- Leverage GEMS' position as a strategic purchaser of healthcare services
- Bring about much-needed positive socio-economic transformation
- Encourage increased participation of black people as well as the empowerment of suppliers
- Promote accelerated and shared economic growth
- Preferential procurement promotion strategy

## Beneficiaries:

- 91% Black
- Over 1 million previously uncovered

## Employees:

- 95% black
- 68% Female
- 1,6% disabled

## 2019 Procurement Awards:

- 10 Level 1 (EME, Large, QSE, Generic)
- 1 Level 2 (EME)

# Governance: Board and Standing Committee Structure

The Board is responsible for providing the Scheme’s strategic direction, overseeing the implementation of the Scheme’s strategic plan by scheme management and overseeing the management of risk



# Salient features of the GEMS Board of Trustees

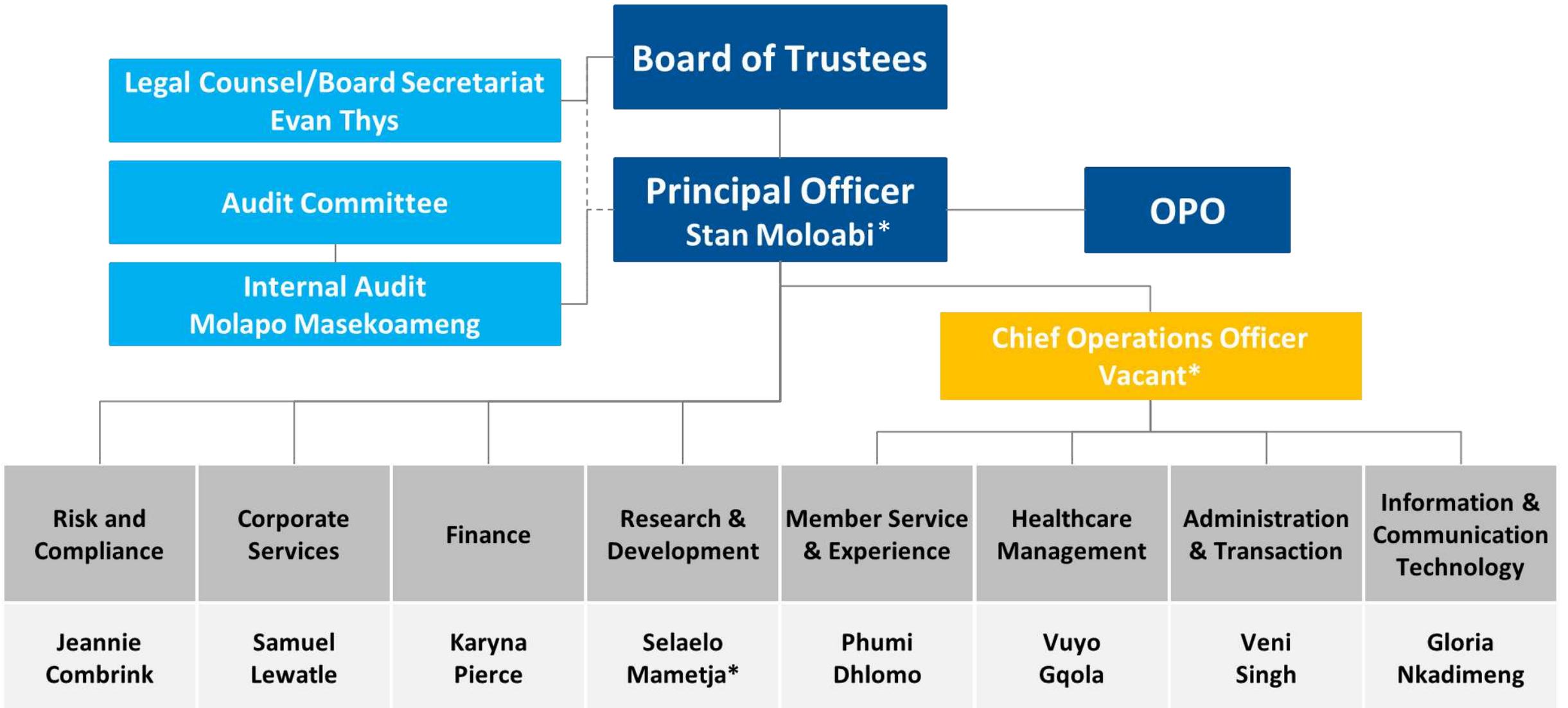
Fifty percent of the trustees are elected by the members of the Scheme by means of a transparent and fair election whilst the other 50% are appointed by the Minister for the Public Service and Administration

The BoT oversees a range of issues and ensures that discussions on policy, strategy, risk management, fraud management and operational performance are critically assessed, well-informed and constructive

The affairs of the Scheme are managed according to the Rules of the Scheme together with all aspects of governance required by the MSA 131 of 1998

The BoT is also committed to the principles of the Code of Corporate Practices and Conduct as set out in the King Report on Governance (King IV)

# Governance: Management Structure



\*Effective 1 February 2020

# Good Governance Features

## GEMS operates in a well-established control environment which is well documented and regularly reviewed

- This control environment incorporates risk management and internal control procedures, which are designed to provide reasonable assurance that assets are safeguarded and risks facing the business are assessed and controlled.
- GEMS has 52 Scheme Policies
- GEMS has introduced a number of new policies which, inter alia, include the Data Classification Policy, Debt Management Policy, Environmental Management Policy, Integrated Reporting Policy, Non-Audit and Consulting Services Policy and the Whistleblowing Policy.
- The accounting policies applied by the Scheme are informed and updated, according to circulars issued by the CMS, the Annual Medical Schemes Accounting Guide issued by the South African Institute of Chartered Accountants (“SAICA”) and updates on the latest International Financial Reporting Standards developments (“IFRS”).
- In preparing the Annual Financial Statements, the trustees use the appropriate accounting policies and have consistently applied these policies and fairly present the both the financial position and operational results
- **All pre-existing and new policies do not tolerate nor support discrimination.**
- Noteworthy, the Scheme has consecutive year track record of unqualified audits since Scheme inception.

# Summary



GEMS is in compliance with the Medical Schemes Act 131 of 1998 and its Regulations, including section 59



GEMS is, by design, a transformative organisation



GEMS demonstrates good governance

# Context of GEMS response to s59 Investigation

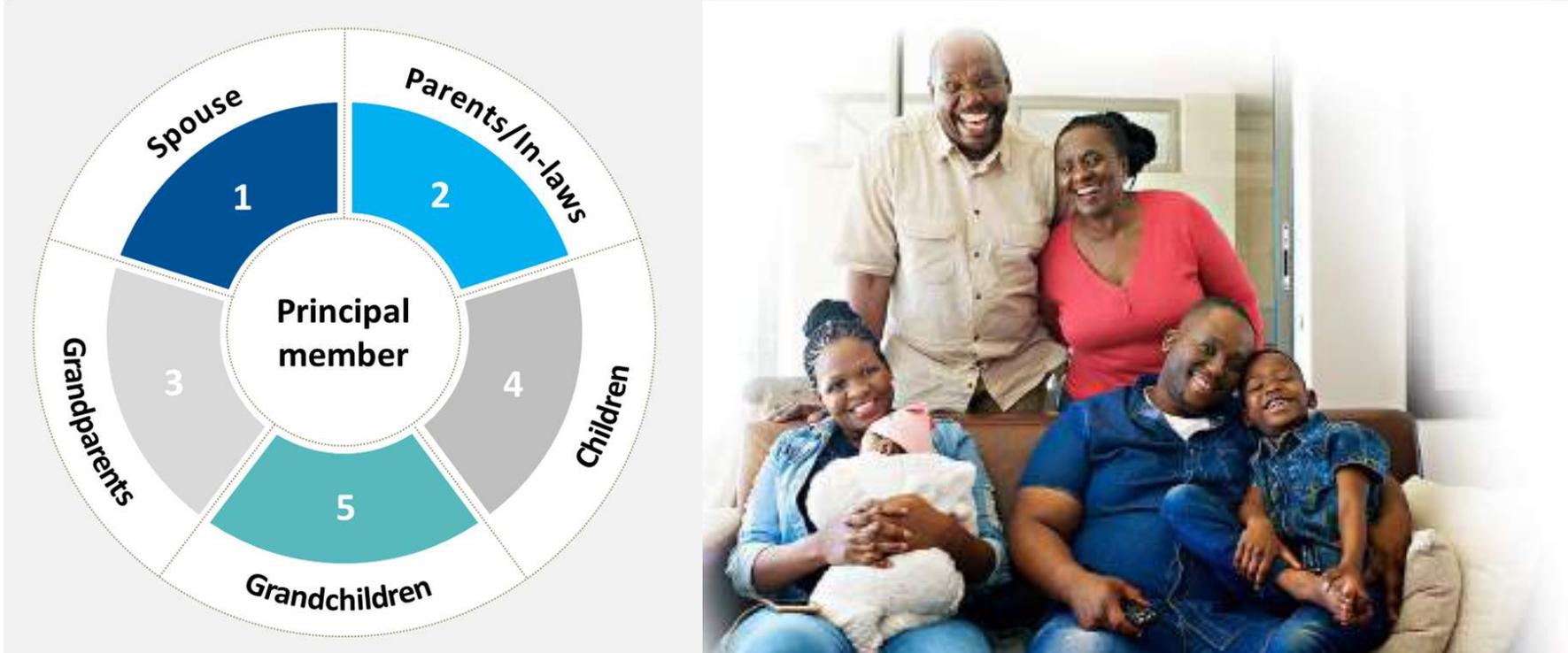
## GEMS membership and financial aspects

Dr Stan Moloabi



# GEMS Reducing Inequality

**Broadest beneficiary definition has provided access for more than  
1.18 million previously uncovered lives  
5 generations can be covered under a single membership**



# 65% of GEMS membership previously uncovered

Without GEMS, these lives would not be able to find affordable cover in the open scheme market

## R15.7 billion

in benefits paid to these families in 2018

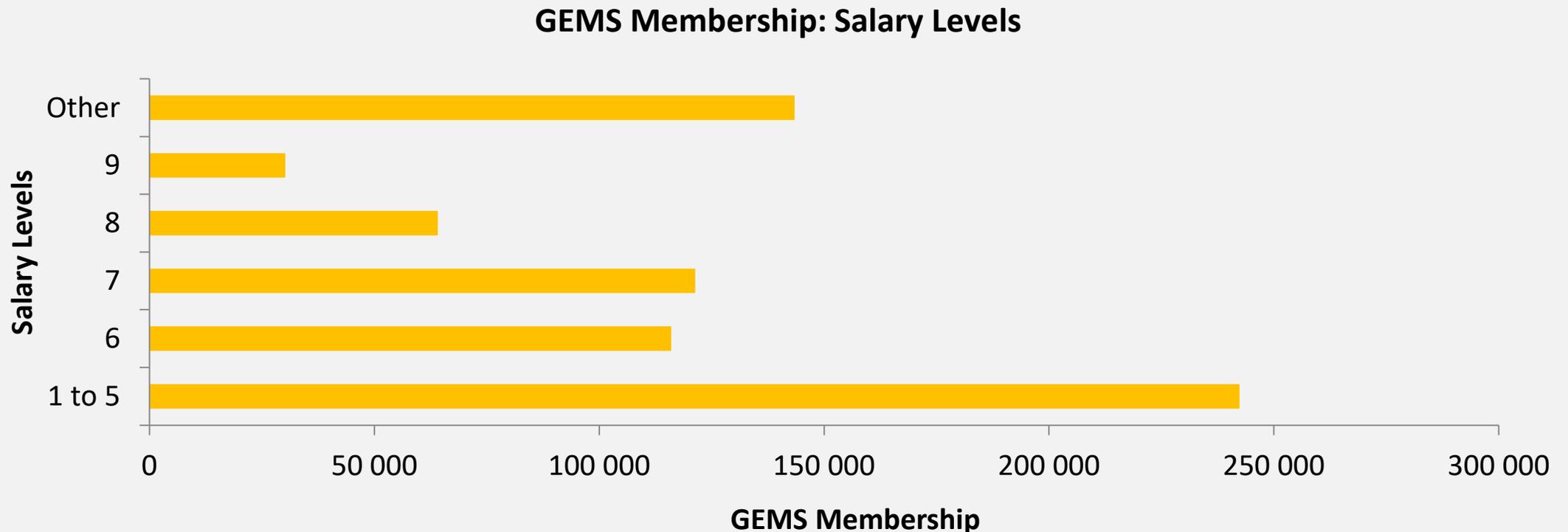
### Examples

- Thandi was one of the first members to join GEMS in 2006 (over 12 years)
- Thandi earned below R 6000 when she first joined the scheme
- Thandi currently has 8 dependants; started off with 2 dependants
- Thandi was never covered before she joined GEMS
- 2018 claims = R223 431 in claims; since joining R1.9 million of claims paid

Option	Emerald	Ruby	Sapphire	Sapphire
Number of Beneficiaries	11	10	10	9
Dependant Relationship	Wife, father, mother, mother-in-law, daughter, grandson, granddaughter	Partner, son, stepson, father, child	Partner, mother, brother, sister, nephew, niece	Grandson (5), granddaughter (4)

# Public Service Employees on Salary levels 1 to 5

- GEMS is also focussing on registering employees salary levels 1 to 5, across all the options. The salary levels 1 to 5 employees currently equate to 33.8% of the GEMS population.
- Employees in the public service employed on salary levels 1 to 5 typically earn between R8 000 and R15 000 per month.



# Membership

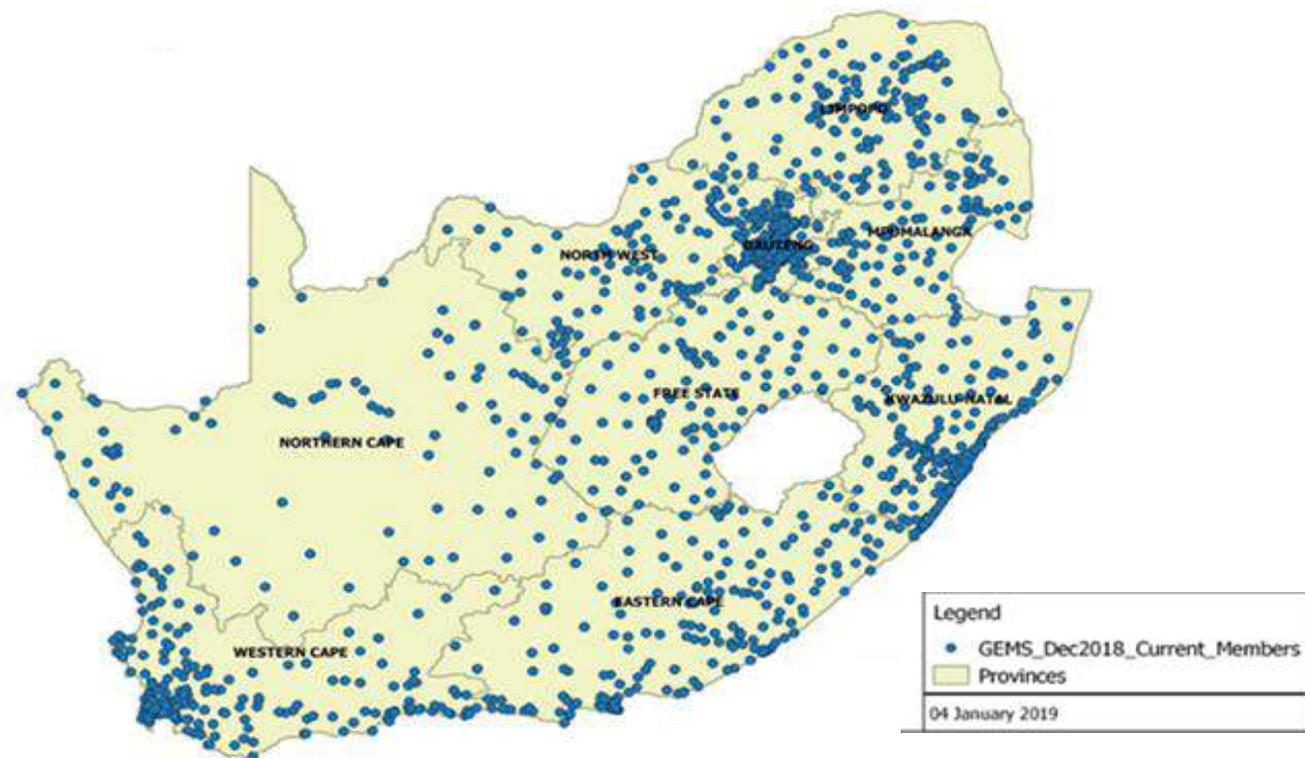
- GEMS' **race classification is not a mandatory field** during the membership application process. Members who voluntarily share their race information equate to 51.1% of the membership as at August 2019.
- Based on this information it is clear that **GEMS has significantly more black members**

Black	White (Non-Black)
91,35%	8,65%

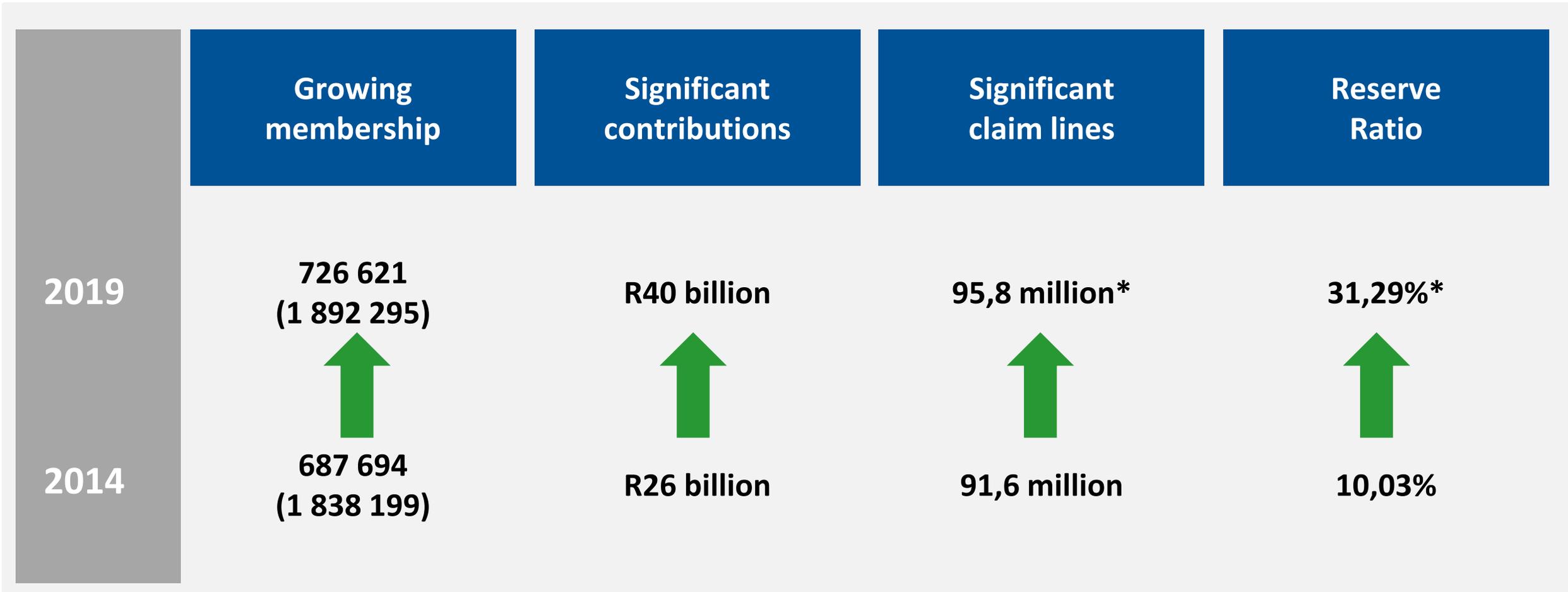
# Membership

- There are 240 eligible government departments and a number of public entities whose employees are eligible to join GEMS.
- The KZN Department of Education is the largest employer group with 57 531 registered members as at the end of August 2019.
- GEMS has a large representation in rural areas

## Geographical distribution of GEMS members as at 31 December 2018



# GEMS is the largest restricted scheme in South Africa...



... and is growing

# Contributions and Claims

During the public hearings some healthcare providers and/or societies submitted that a medical scheme should be in a position to fully validate claims within the 30 day period provided for in Reg 6.

268,364

Claims received  
daily

8,162,745

Claims received  
monthly

7,815,322

Claims paid  
within a month

95,7%

Claims paid  
within 30 days

4,3%

Not paid within 30  
days relate to  
benefits depleted,  
erroneous claims

- As best as possible GEMS adjudicates all claims within 30 days (beyond validating it against the requirements for a valid account provided for in Regulation 5)
- It is GEMS view that the parties who made submissions that schemes generally do not pay claims is completely untrue

# Claims impact on Scheme reserves

- Medical schemes are required to hold 25% of annual contributions received in reserve by law to ensure that it is always in a position to cover claims
- In 2016 the GEMS reserves dropped to alarmingly low levels
- It is our submission that Instances of FWA played a role and the resultant media attention created panic amongst GEMS members
- Low contributions increase, over 1 billion in additional benefits in 2019 for 2020, record levels of membership growth and GEMS paying more claims to more providers

Year	2014	2015	2016	2017	2018
Contributions	R26 02 192 907	R28 39 221 047	R 31 43 708 744	R35 96 012 845	R38 311 587 307
Reserves (Rands)	R2 659 261 857	R2 796 484 962	R2 033 840 389	R5 404 088 371	R9 368 823 132
Reserve Ratio	10.03%	9.94%	<b>6.99%</b>	15.22%	24.7%

# Claims impact on Scheme reserves

BusinessLive.co.za

## State medical aid may go bust

22 AUGUST 2016 - 07:40 BRONWYN NORTJE

THE Government Employees Medical Scheme (Gems) could be insolvent by financial year-end if drastic cost-containment measures are not instituted.

This would mean the scheme would need to be bailed out by the Treasury or amalgamated into a different scheme, forcing significant changes in benefits for its 1.8-million members.

It would be a big blow to those in government who hoped the scheme could provide a viable funding model for the proposed National Health Insurance.

It would also be an embarrassment for the Council of Medical Schemes, which has used its discretion to avoid putting the scheme under curatorship...

Medicalbrief.co.za

## GEMS faces insolvency threat

24 AUGUST 2016

The Government Employees Medical Scheme (GEMS) could be insolvent by financial year-end if drastic cost-containment measures are not instituted, reports Business Day.

This would mean the scheme would need to be bailed out by the Treasury or amalgamated into a different scheme, forcing significant changes in benefits for its 1.8m members.

The report said it would be a big blow to those in government who hoped the scheme could provide a viable funding model for the proposed National Health Insurance. It would also be an embarrassment for the Council of Medical Schemes...

# GEMS Claims Management Forum

- GEMS took action in order to immediately improve the negative claims experience, by:
  - Establishing the Claims Management Forum (“CMF”) to understand the drivers that lead to the increase in the claims experience; and
  - Understand what appropriate interventions could be implemented to manage the significant increase in claims.
- The aim of the CMF was to also focus on FWA and make use of data analytics performed by both the Scheme’s Actuaries, Strategic Managed Care providers and the Administrator of the Scheme to identify potential outliers.

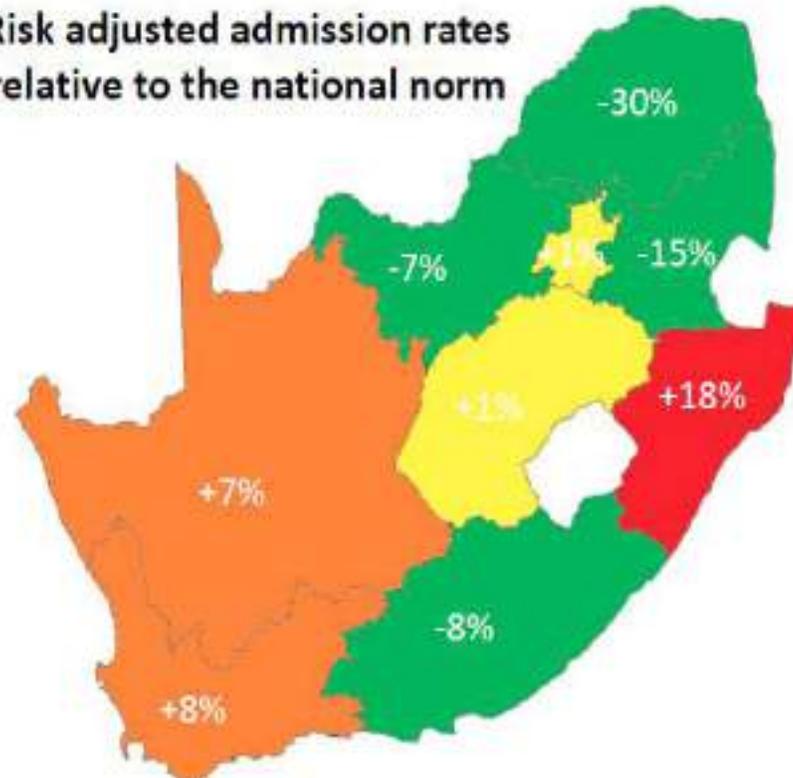


**The introduction of the CMF not only reduced the loss in 2016 but was also responsible for the better 2017, 2018 and 2019 financial performance.**

# GEMS Claims Management Forum

- The CMF identified the KZN region as a significant outlier when compared to the rest of the provinces in the country.
- This could not be explained by any demographical differences between the members of the various provinces.
- This led to the Scheme implementing onsite case managers at specific hospitals identified as outliers and also using forensic investigators to follow up on potential FWA in the region.

Risk adjusted admission rates relative to the national norm



Admission rates vary significantly by region

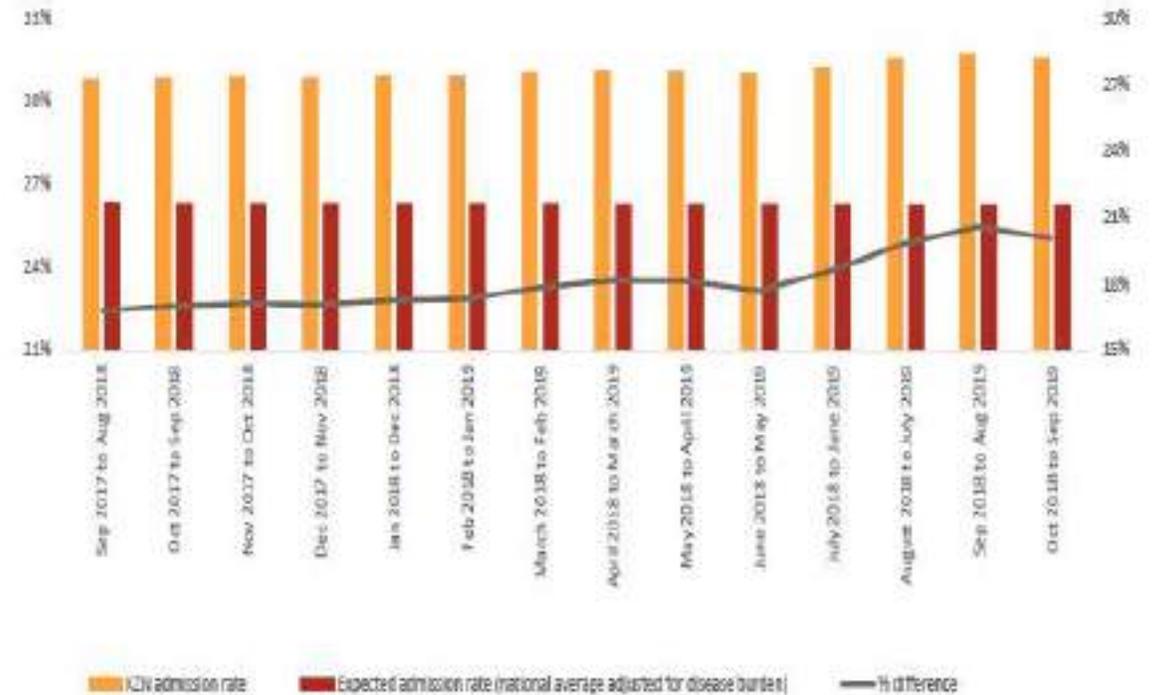
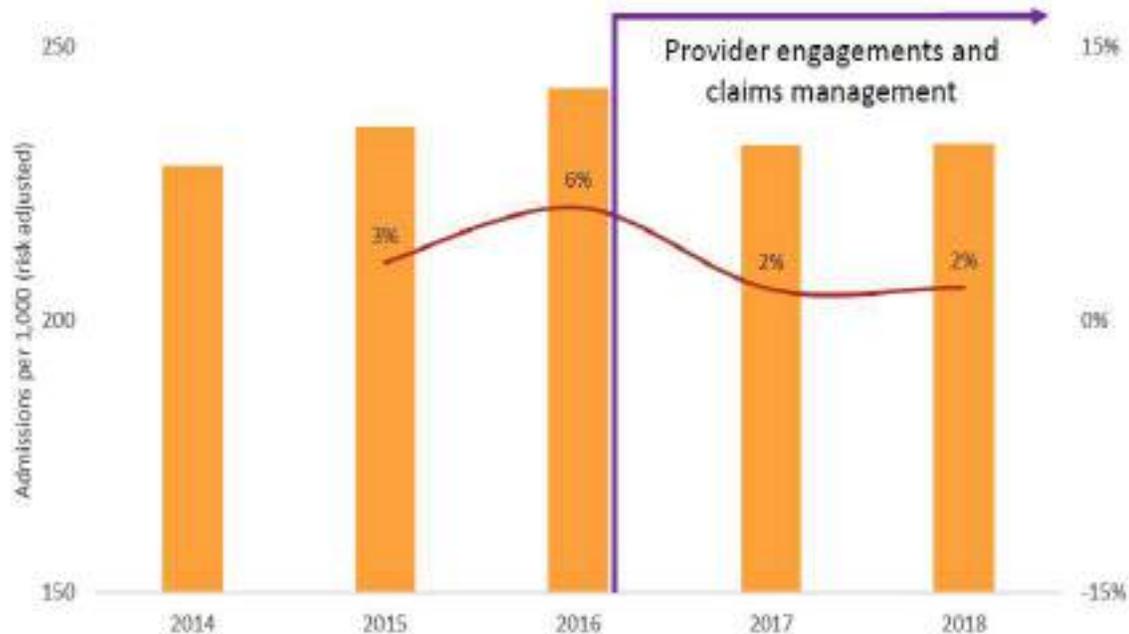
KZN admission rates are 18% higher than the national

Higher than expected admission rates in KZN are estimated to cost medical schemes over R4.5 billion per year

# GEMS Claims Management Forum

- Based on percentages, GEMS has more members in KZN than any other Scheme.
- Approximately 19.5% of the GEMS membership resides in KZN.
- Based on the 2018 CMS report, it is estimated that other schemes have ~12.6% of their beneficiaries located in KZN

At the end of 2016, the scheme proactively tackled providers suspected of supplier induced demand and other abusive practices; admission rates declined by 4%



# GEMS Claims Management Forum

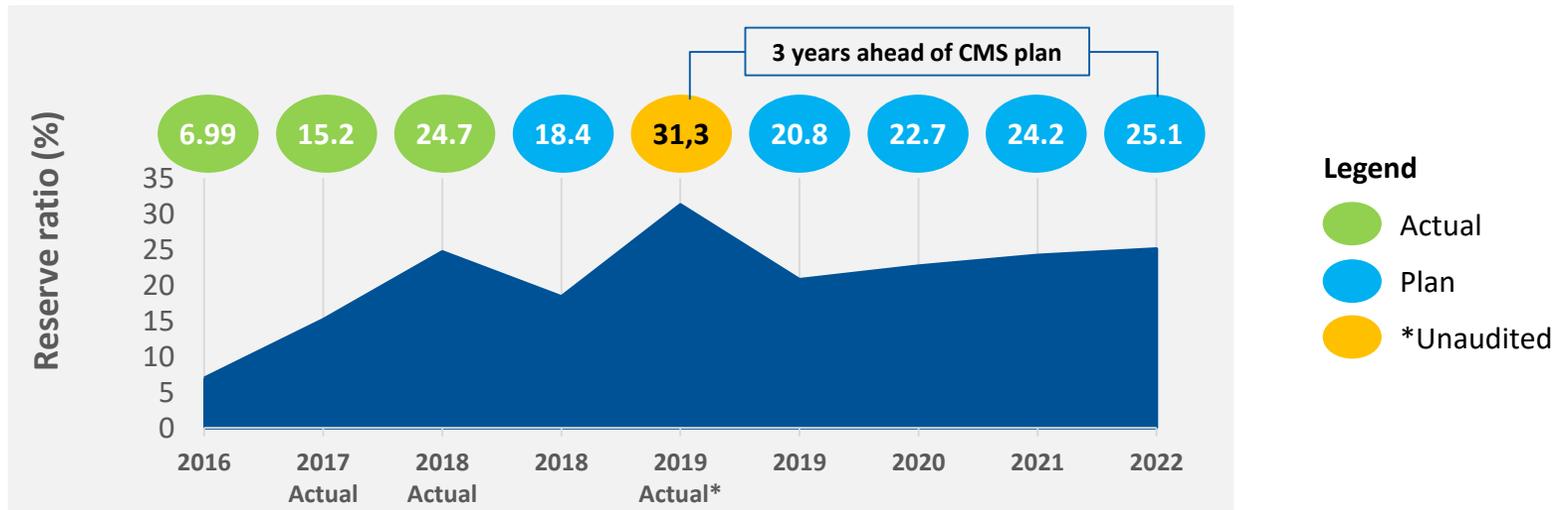
## GEMS Claims Management Forum

The Scheme introduced a number of interventions which have resulted in savings

Focussed intervention	2017	2018
Underwriting	R1.1bn	R950m
Protocol reviews	R293m	R211m
In-hospital case reviews	R99m	R108m
FWA initiative	R272m	-
MPL savings	R18m	R53m
EVO	R77m	R30m

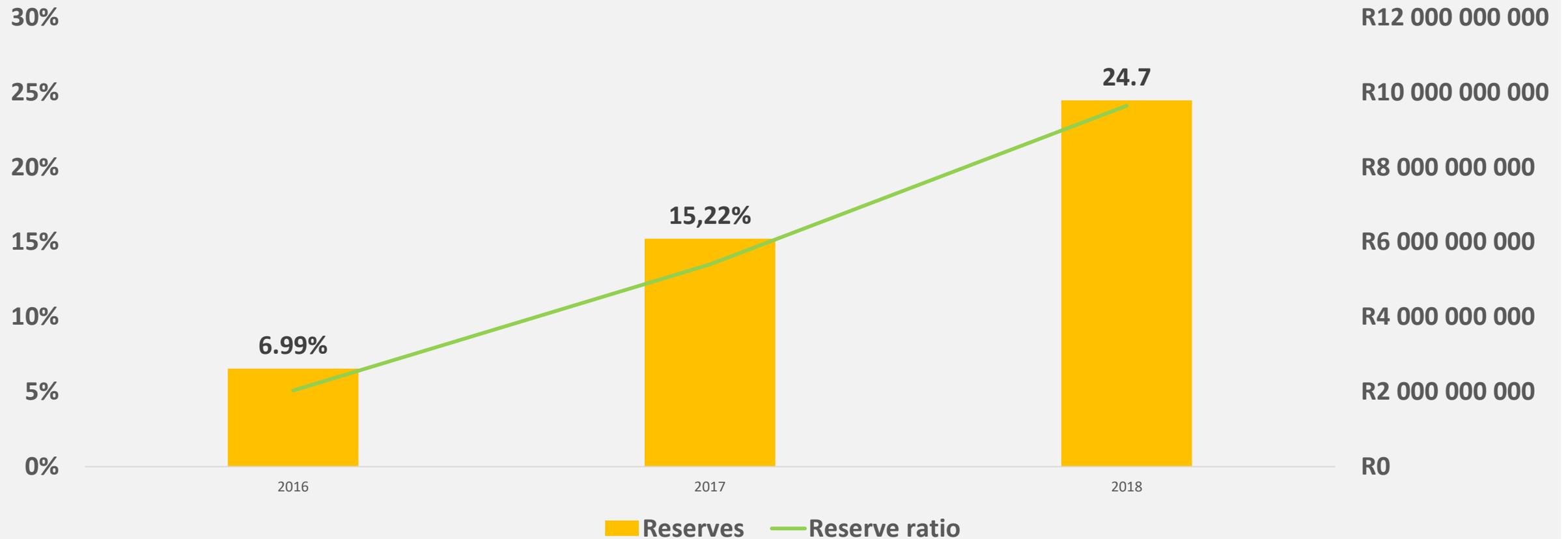
# CMS approved a plan to reach statutory 25% reserve ratio

Benefits to members	
1	A sustainable GEMS
2	Assurance that large in-hospital claims will be paid
3	Provide headroom for improving benefit design and structure sustainably
4	Over time contribution increases can be lower



# GEMS financial stability and sustainability

The financial turnaround was driven by initiatives implemented by the Claims Management Forum



# Claims Paid

**GEMS provides its members with comprehensive benefits which are sufficient to satisfy even the most significant needs**

**43 members**



**R3 000 000**

**6 409 members**



**R500 000**

**1 308 members**



**R1 000 000**

**63 848 members**



**R100 000**

# Governments efforts to Fighting Corruption



The poster features a circular logo at the top left with the text 'STOP I END' around a central 'I'. Below it, the word 'CORRUPTION' is written in large, bold, black letters, with 'FIGHTING CORRUPTION IS EVERYBODY'S BUSINESS' in smaller red text underneath. The main headline reads 'Medical aid fraud accounts for a 22B revenue loss a year in South Africa.' To the left of this text is an image of a green GEMS medical aid card. Below the headline, it says 'Report fraud and corruption on 0800 701 701'. A green banner at the bottom contains the hashtag '#FightingCorruption' and social media icons for Twitter and Facebook, both labeled 'GovernmentZA'. At the very bottom, there is a black banner with the slogan 'Together we move South Africa forward' and logos for the South African government and the NDP.

**STOP I END**  
**CORRUPTION**  
FIGHTING CORRUPTION IS EVERYBODY'S BUSINESS

**Medical aid fraud accounts for a 22B revenue loss a year in South Africa.**

Report fraud and corruption on 0800 701 701

**#FightingCorruption**

You can also share your photos, videos, sound bites, graphics or messages on:  
Twitter: GovernmentZA Facebook: GovernmentZA

Together we move South Africa forward

REPUBLIC OF SOUTH AFRICA  
NDP

- Fraud is a criminal offence
- It robs members of funds to access healthcare services when needed the most
- GEMS follows the legal route
- GEMS does not incentivise recoveries
- GEMS does not use hidden cameras
- GEMS is compliant to section 59
- GEMS pursues sanctions and rehabilitation

# Evidence on how GEMS and administrator perceives and manages FWA

Dr Solly Motuba and Mr Ishmael Mogapi



# GEMS Investigations and Sanctions Process

**At the core of GEMS's commitment to deliver the best possible healthcare at the most affordable rates to its members is the need to mitigate risk, with specific reference to FWA.**

**GEMS understands that FWA is driven through an individual or group of individuals' need to act in a manner that may prejudice the Scheme, its beneficiaries and other providers, if this is not prevented.**

# Protecting and Strengthening Member Benefits

Create a culture of ethics and intolerance to FWA

01

Prevent FWA

02

Detect FWA

03

Investigate FWA

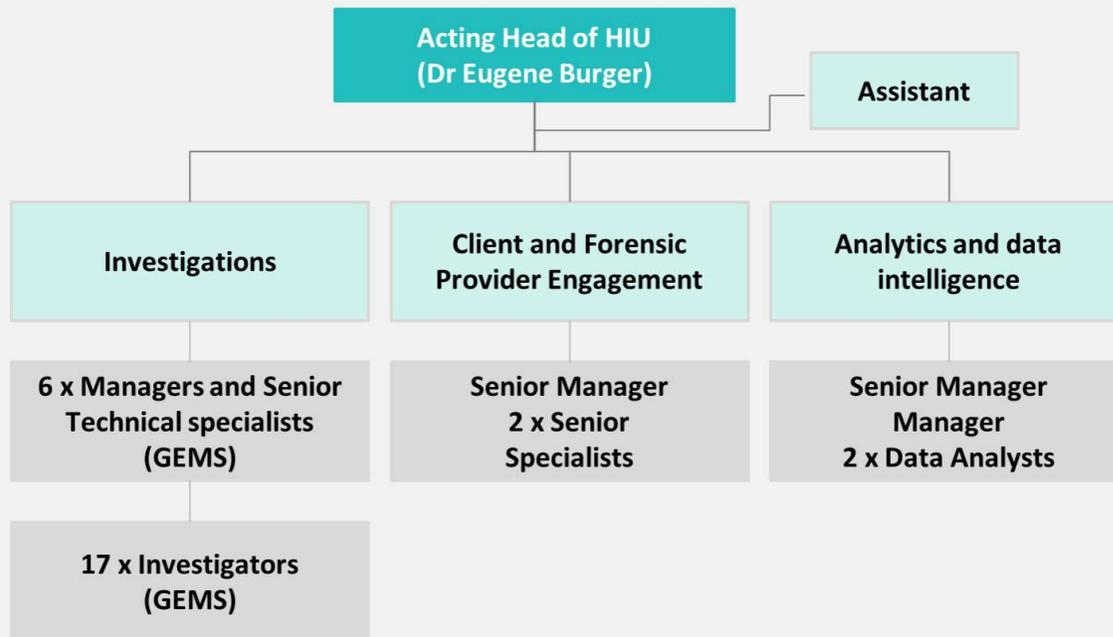
04

Take action i.e. apply sanctions or engage

05

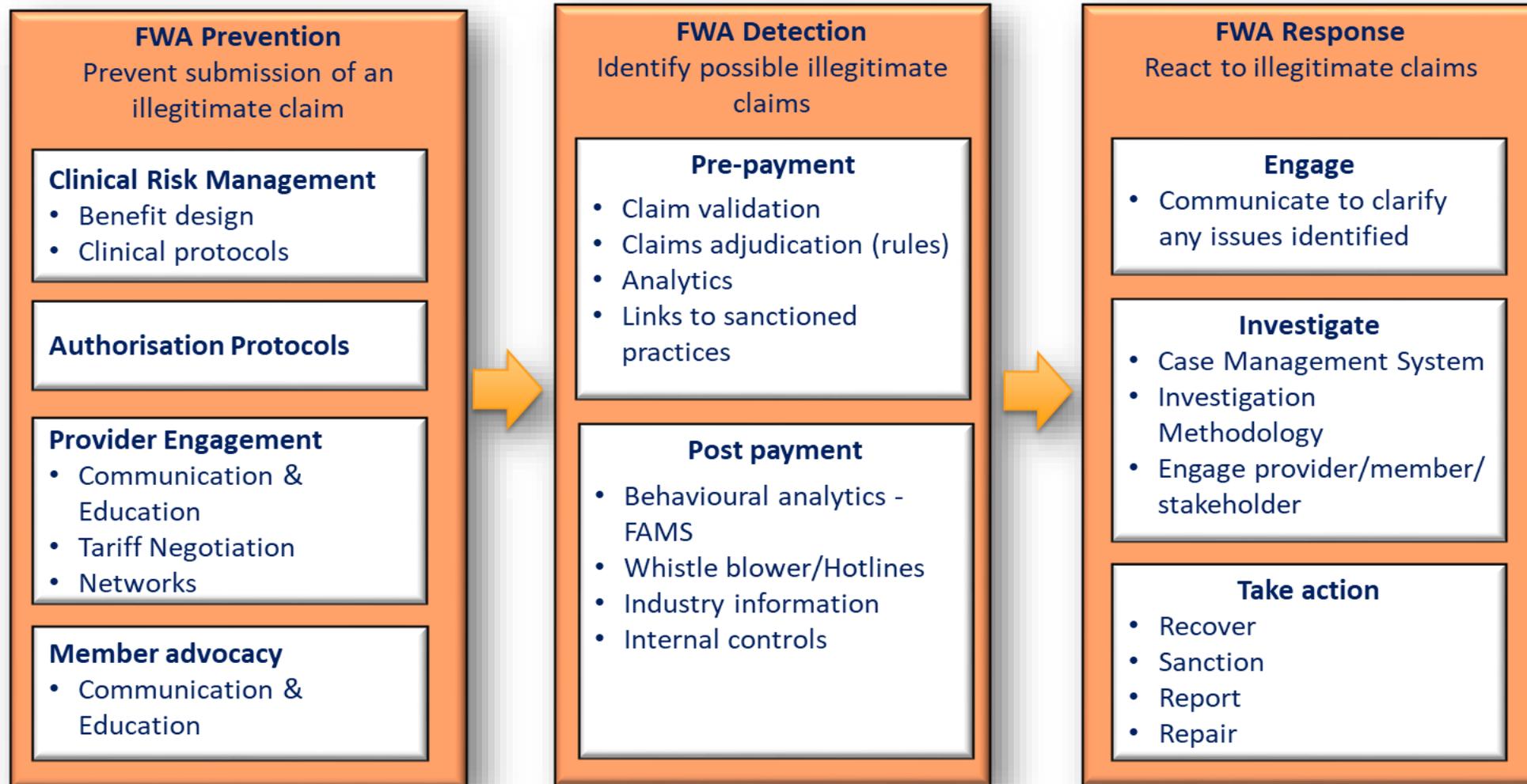
# Who investigates FWA

- The MH HIU provides the investigation capability on behalf of GEMS.
- Multi-skilled team includes medical doctors, nurses, psychologists, attorneys and investigators some of which have 10 plus years' medical aid investigation experience.



- In addition, the Scheme depend on other teams in its claims administration to preform preliminary verification/reviews of claims namely the claims adjudication and profiling teams
- Lastly, GEMS also relies on other contracted parties rendering claims adjudication services (SPN) and field investigators (FIS) to render investigative services.

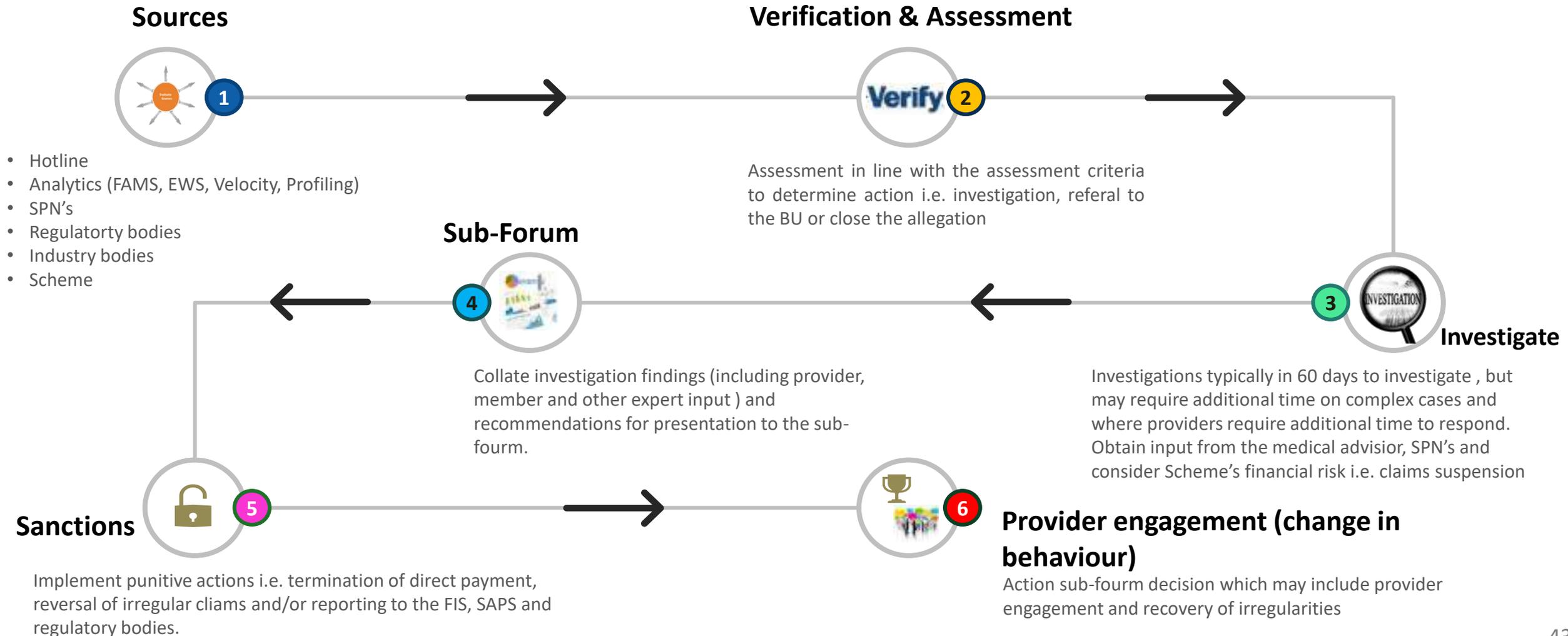
# FWA Management Process



**Payment for the right service to the right provider for a service rendered to the right beneficiary and in the right amount**

# Fraud Risk Management Process

The FWA process flow, including the assessment stage is shown in the flow chart below., with the detail already being setout in the written submission.



# Other analytical tools

## Early Warning System

YTD figures are > 20% more than the same period in the prior year for benefits paid, number of claim lines, number of claimants

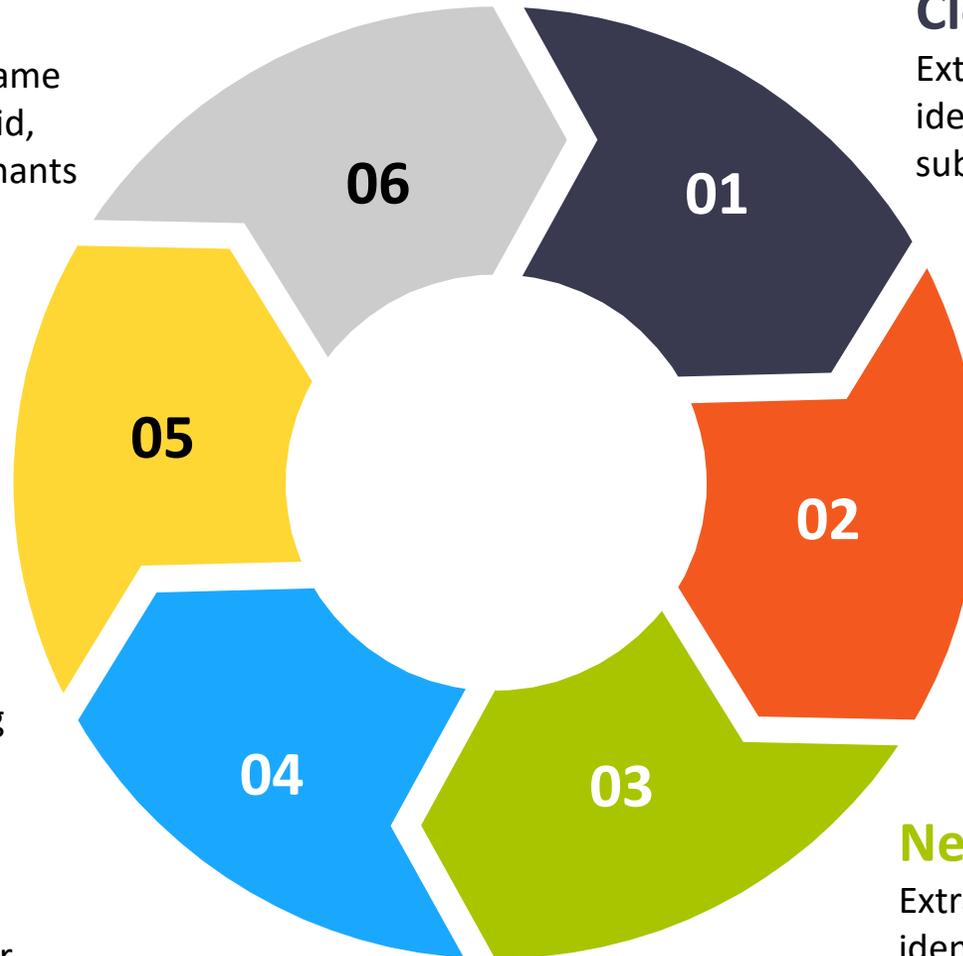
## Time Velocity Report

Total time per day per tariff code claimed by each provider and shows providers exceeding 11 hours per day per tariff code.

## Linked Practices

Links established with existing sanctioned practices by:

- ID number
- Bank account number
- Council number
- Dispensing license number
- Phone number
- Email address



## Closed Practices

Extract and review a report that identifies all closed practices submitting claims post the closed date.

## Dormant Practices

Extract and review a report that identified all practices indicated as "dormant" that are now submitting claims again

## New Practices

Extract and review a report that identifies a new practices (opened within the last year).

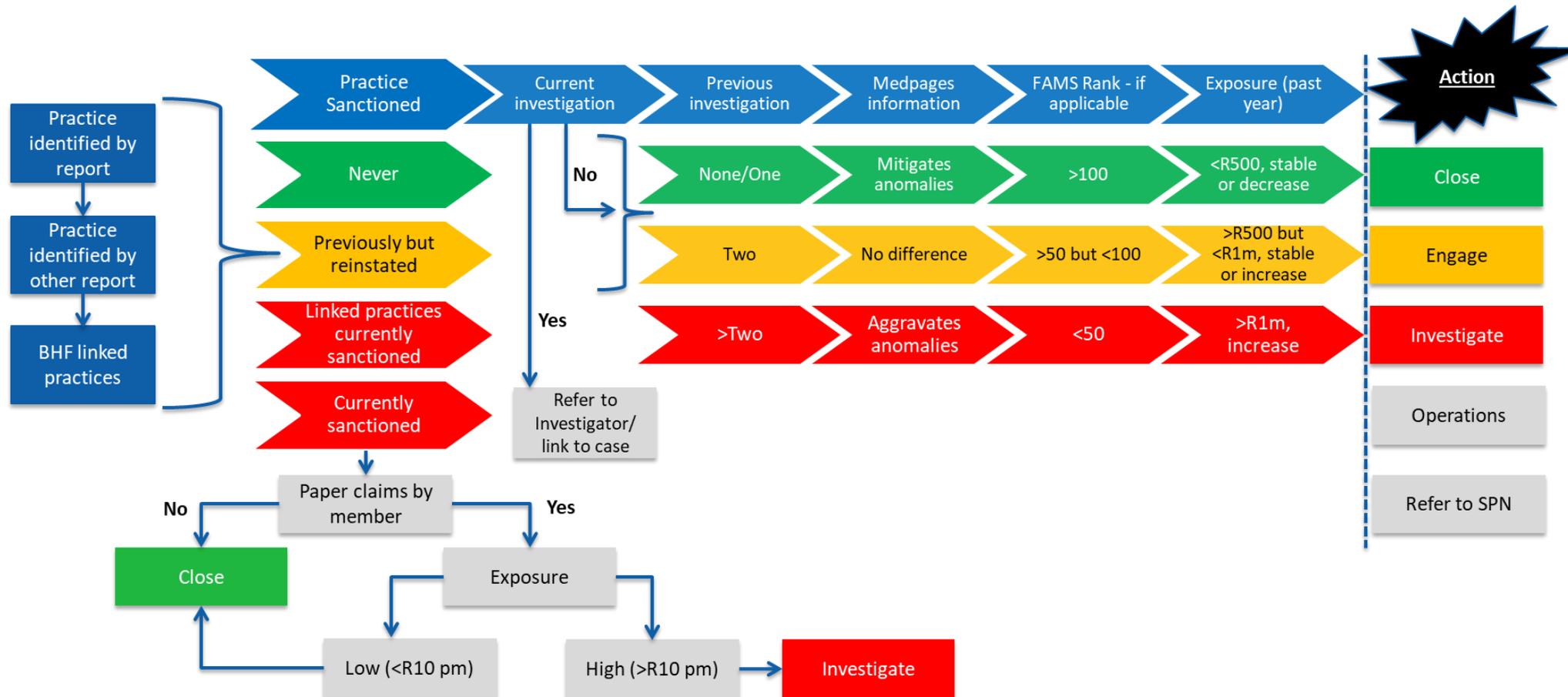
# Assessment Criteria

The assessment process is designed to assess information received, against a set of criteria, to determine the extent of the risk and the existence of potential FWA and determine the actions required

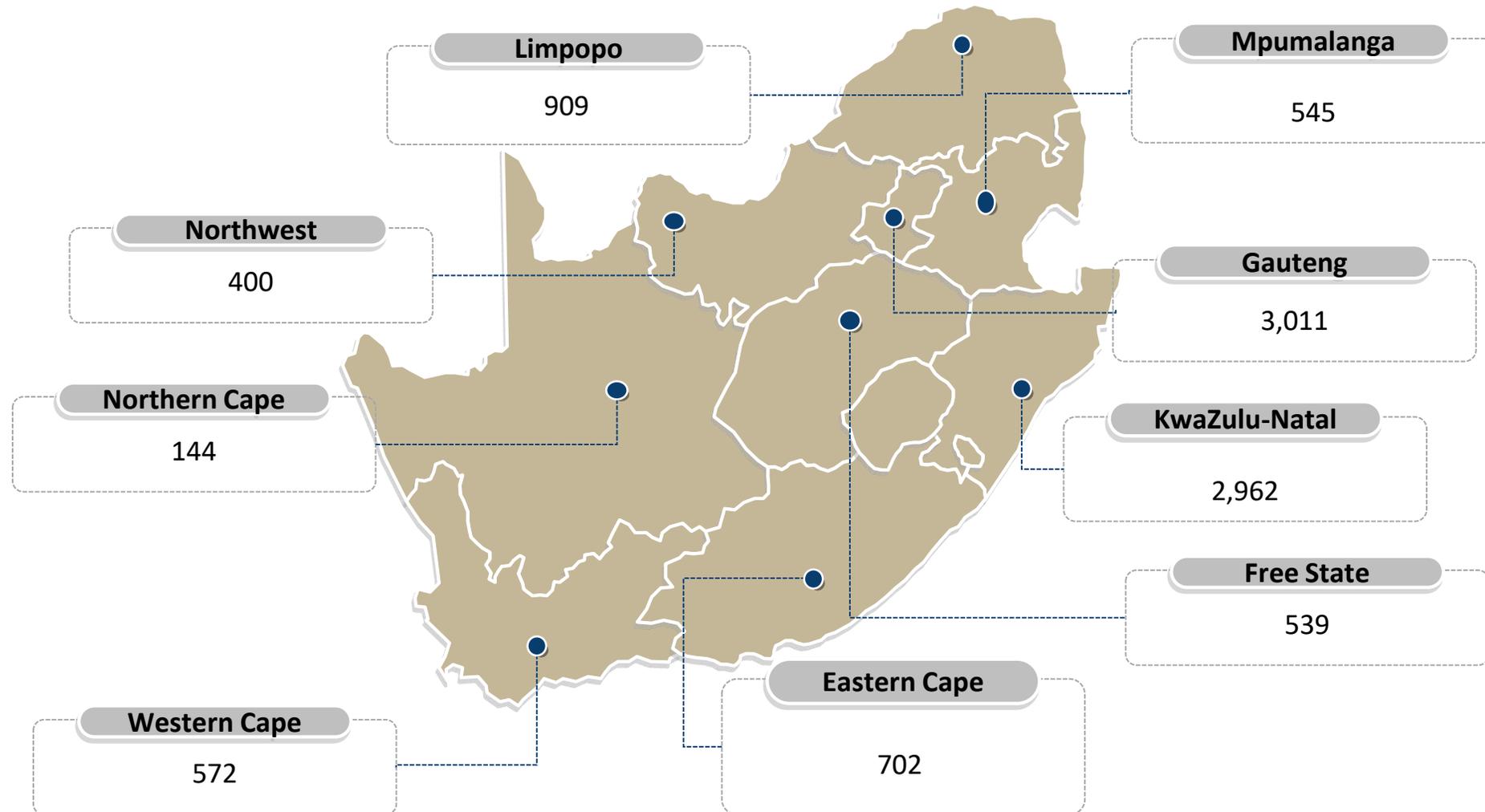
	Quantitative criteria	Qualitative criteria
<b>1 Determine accuracy of information in the allegation</b>	<ul style="list-style-type: none"> <li>GEMS exposure &gt;R500k per year</li> </ul>	<ul style="list-style-type: none"> <li>Scheme specific request</li> </ul>
<b>2 Determine if FWA elements are present</b>	<ul style="list-style-type: none"> <li>GEMS exposure &gt;25% increase quarter on quarter</li> </ul>	<ul style="list-style-type: none"> <li>On-hold / suspend pay status</li> </ul>
<b>3 Perform assessment against criteria</b>	<ul style="list-style-type: none"> <li>High number of member reversal requests (i.e. more than 3 member reversal requests)</li> </ul>	<ul style="list-style-type: none"> <li>Vuvuzela hotline report</li> </ul>
<b>4 Take action i.e. Close/Refer to BU/Lead Investigation</b>	<ul style="list-style-type: none"> <li>Analytical outputs i.e. FAMS scores, Velocity and EWS report outputs</li> </ul>	<ul style="list-style-type: none"> <li>Media related matter</li> <li>Nature of anomalies reported or suspected</li> <li>Circumvention of sanctions previously implemented</li> </ul>

# Assessment Criteria

The process provides a view of the structured approach and detailed consideration in the selection of a provider for investigation



# Geographic concentration of allegations received



# Outlier Identification using FAMS



IBM Fraud and Abuse Management System

Sign In

User Name

Password

Sign In

# Sanctioning of Providers

In line with the GEMS sanctions document, the following sanctions may be imposed on providers, where evidence of FWA activity has been found and include but are not limited to:

Reversal of all irregular claims

Issuing a final warning

Termination of direct payment

Monitoring claim submission

Longer claims payment cycle

Placing provider under review or removal by network management

Termination of the network agreement where applicable

Reporting a provider to the relevant professional body (HPCSA, SAPC, SANC)

Recovery of losses through civil litigation or negotiated settlement

Proceeding with a criminal case

Categories of sanctions, depending on the transgression

Category 1  
(Waste)

Category 2  
(Abuse)

Category 3  
(Fraud)

# Sanctioning of Members

**Member sanctions may include, but are not limited to the following:**

**Issuing a final warning**

**Terminating membership**

**Proceeding with a criminal case**

**Recovery of losses**

**Reporting the member to their employer**

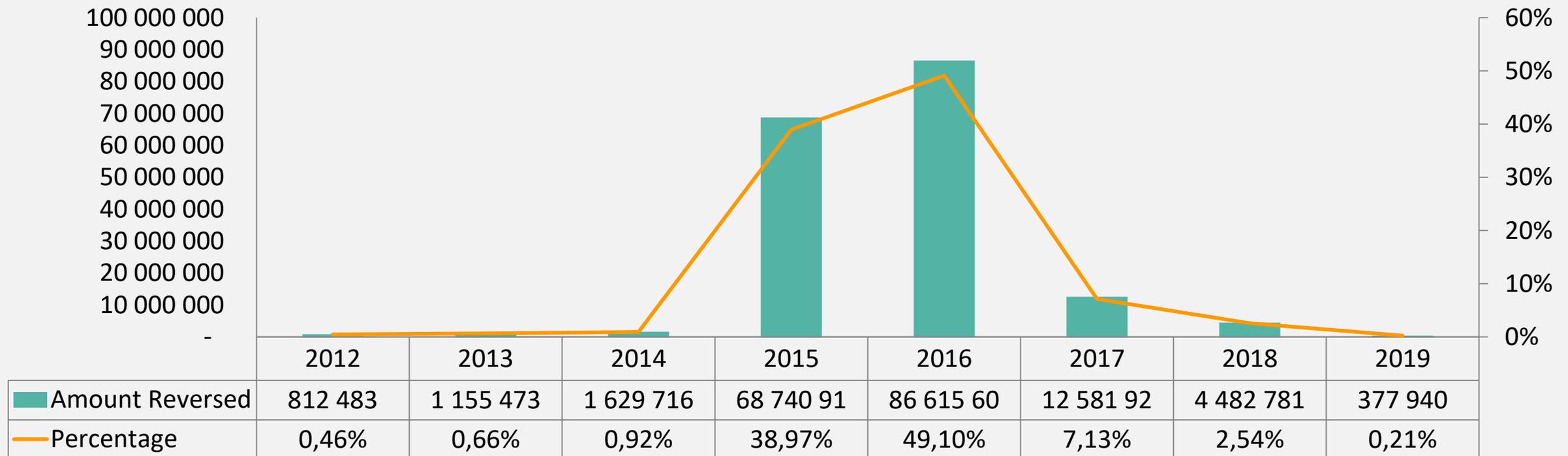
# Reporting to Regulatory Bodies

- GEMS supports the efforts by the regulatory bodies in its oversight role across the various healthcare disciplines.
- The majority of providers or practices reported to the regulatory bodies are reported either to the Health Professions Council of South Africa (“HPCSA”) and the South African Pharmacy Council (“SAPC”).

Year reported	HPCSA reports	SAPC reports
2012	56	4
2013	38	9
2014	22	7
2015	-	-
2016	12	4
2017	53	7
2018	48	7
2019	43	1

# Reversal of Irregular Claims

- Prior to 2017, GEMS reversed all claims it deemed questionable or irregular in instances where providers failed to respond to anomalies identified and/or where explanations provided were not suitable to address FWA findings
- During 2015 and 2016, claim reversals by value were exceptionally high and related primarily to claims for Group Practices and Physicians in 2015 and Clinical Psychologists and Registered Counsellors in 2016.



# Recovery of Irregular Claims

Process prior to 2016 and developments up until 2019 in respect of recoveries

Section 4.4 of the GEMS Fraud Policy and Prevention Plan sets-out the requirement for recoveries for forensic debt

Prior to 2016	2016	2017 - 2018	2019
<ul style="list-style-type: none"><li>▪ GEMS primarily reversed irregular claims and handed matters over to legal to pursue action and recoveries against providers</li></ul>	<ul style="list-style-type: none"><li>▪ Forensic reversals performed for anomalous transactions</li><li>▪ Recovery process through the signing of AOD's introduced</li><li>▪ AODs would be negotiated between GEMS and the provider and signed by both parties</li></ul>	<ul style="list-style-type: none"><li>▪ Forensic reversals would be performed for anomalous transactions</li><li>▪ AODs would be negotiated between GEMS and the provider and signed by both parties</li></ul>	<ul style="list-style-type: none"><li>▪ Forensic reversals are only actioned where:<ul style="list-style-type: none"><li>▪ Members disputed services; and/or</li><li>▪ Quantifiable irregularities related to specific tariff codes, etc.</li></ul></li><li>▪ HIU negotiates AOD with the provider to settle anomalies identified</li></ul>

# Reinstatement of Provider on Direct Payment

**GEMS has since its inception offered providers an opportunity to be reinstated on direct payment and to receive payment directly**

**Section 59(2) of the MSA does not stipulate that a provider must be paid directly, as it states as follows:**

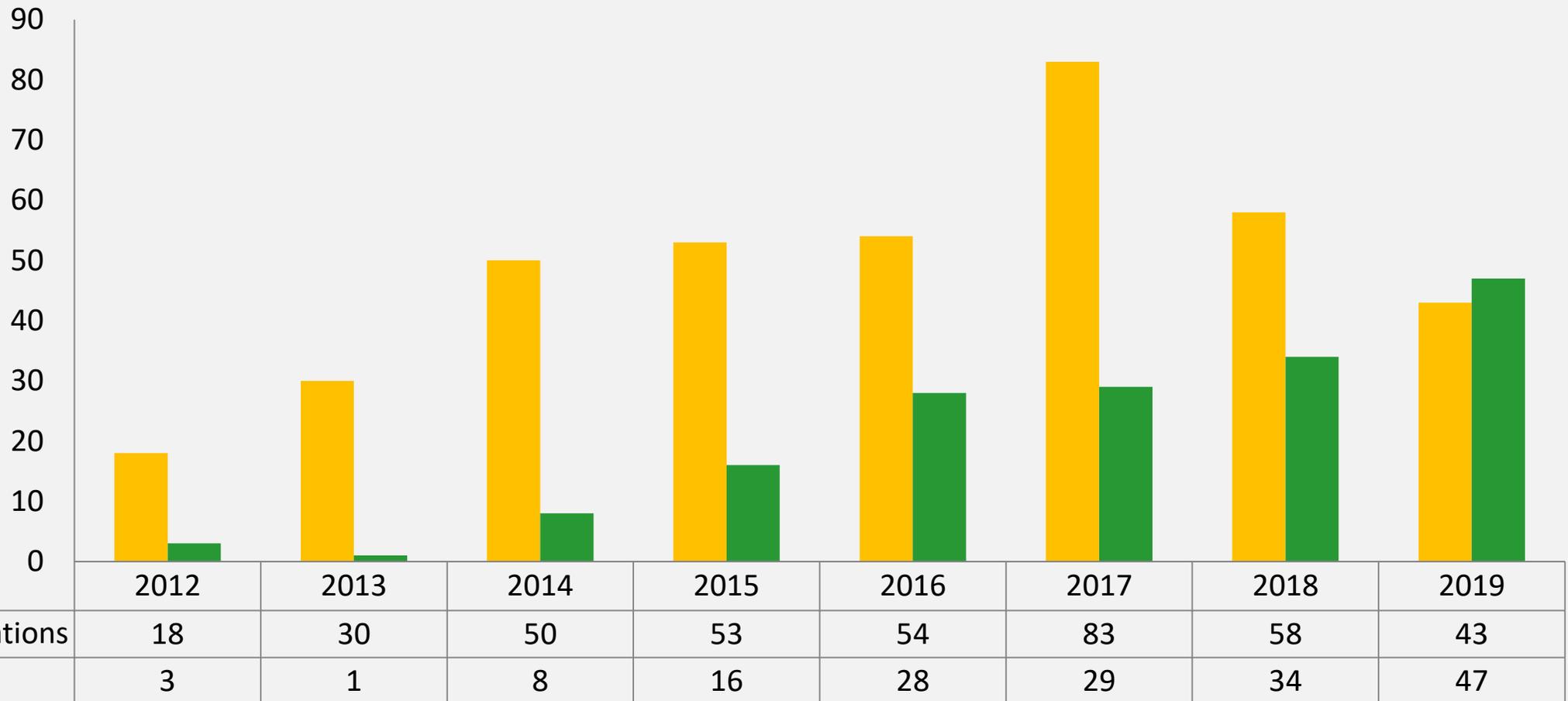
**”A medical scheme shall, in the case where an account has been rendered, subject to the provisions of this Act and the rules of the medical scheme concerned, pay to a member or a supplier of service, .....”.**

## **Criteria for application for reinstatement**

- **The provider must complete an application for reinstatement to direct payment**
- **The application will only be considered after the completion of the civil, professional and/or criminal process; alternatively**
- **After expiry of a 24 month period calculated from date of placing the provider on termination of direct payment, whichever event occurs last.**
- **The provider is given an opportunity to demonstrate, through a written submission, how they are willing to change and/or have changed/rehabilitated and why it would be in GEMS and its members’ best interest for providers to be placed back on direct payment.**

# Reinstatement of Provider on Direct Payment

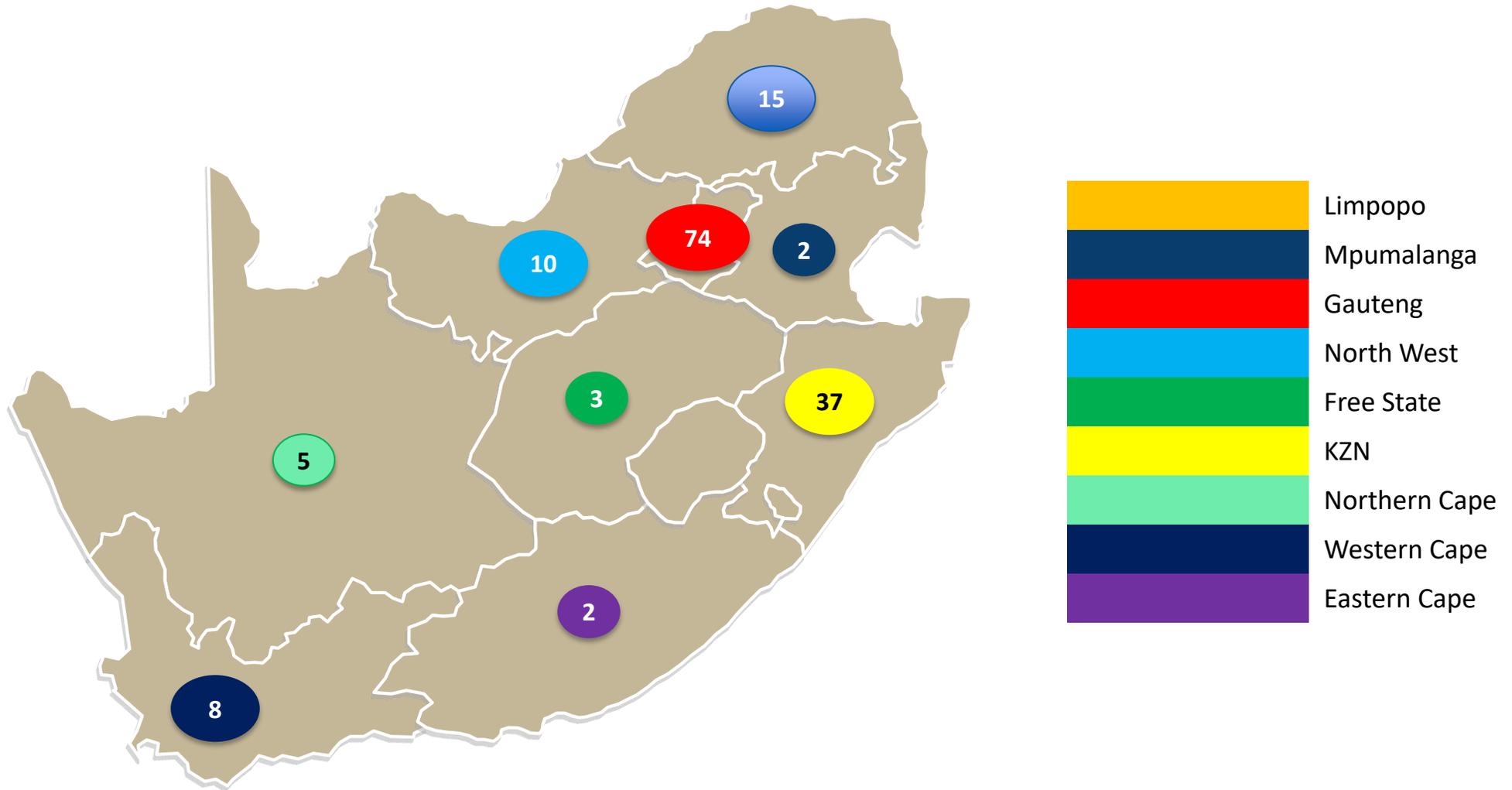
## Number of providers reinstated on direct payment since 2012



# Investigation Example 1

<b>Modus Operandi</b>	<b>Syndicated cash practices</b>
<b>Discipline</b>	<b>Pharmacy</b>
<b>Number of practice involved</b>	<b>36 primary practices</b>
<b>Allegation</b>	Various complaints were received from <b>members who informed the Scheme that claims were submitted against their benefits but no services were rendered and/or they don't know the practice.</b>
<b>Findings</b>	<p>The investigation confirmed that the <b>individuals linked to the various practices were utilising the practices to circumvent sanctions imposed by the Scheme on other investigated and linked practices.</b></p> <p>The investigation also identified:</p> <ul style="list-style-type: none"><li>▪ <b>Acute medication dispensed to children too young to be taking the dosages provided;</b></li><li>▪ <b>Lack of corresponding consultation claims on patient profiles by referral doctors who allegedly issued the prescriptions; and</b></li><li>▪ <b>The referral providers were also sanctioned by the Scheme in the past due to significant irregularities</b></li></ul>

# Geographical spread of the linked practices

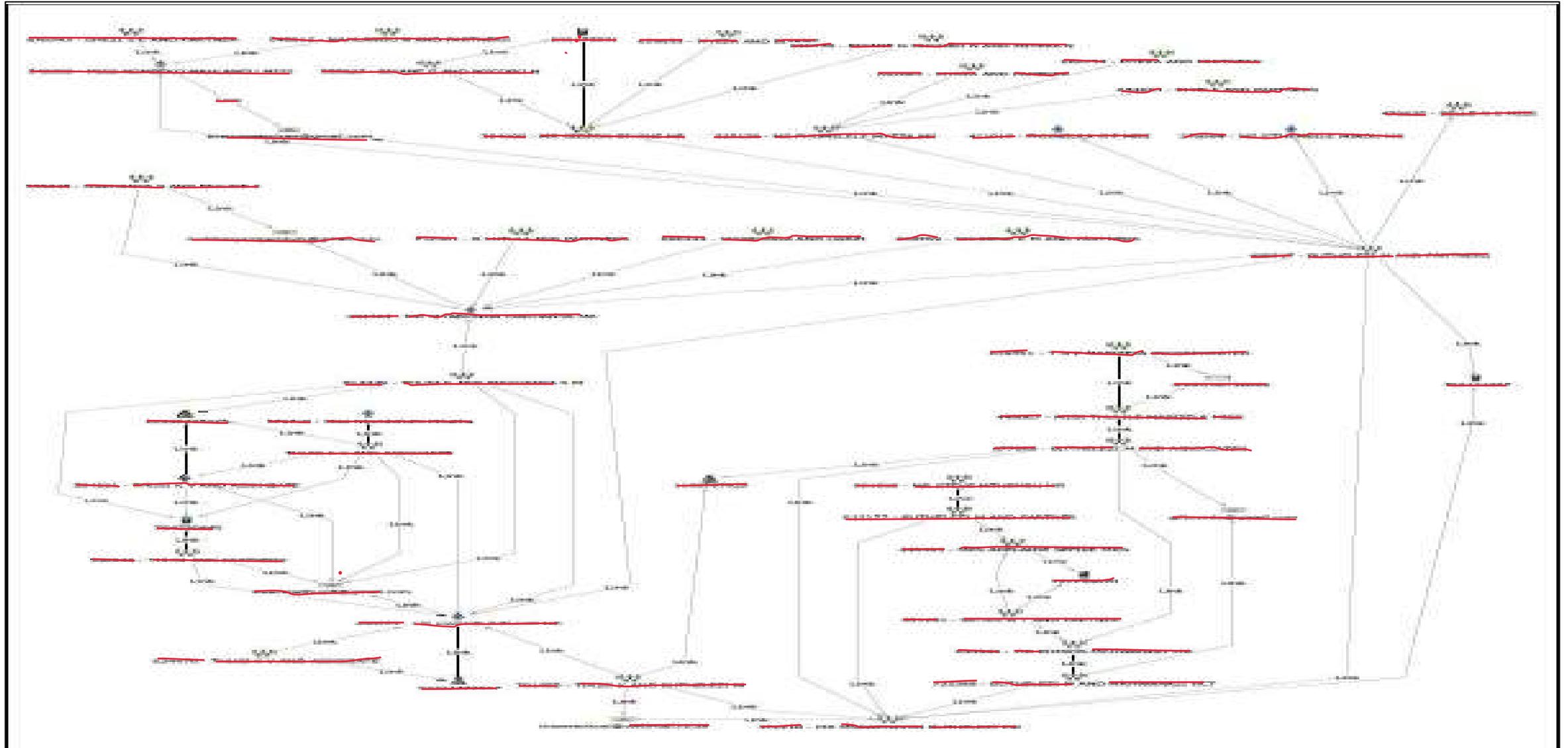


# Investigation Example 2

<b>Modus Operandi</b>	<b>Practice “high-jacking”</b>
<b>Discipline</b>	<b>Clinical Psychology</b>
<b>Number of practice involved</b>	<b>66 primary practices</b>
<b>Allegation</b>	GEMS received a complaint that the healthcare provider was submitting private claims whilst employed fulltime by the Durban University of Technology.
<b>Findings</b>	<ul style="list-style-type: none"><li>▪ The investigation into the matter uncovered that one Psychologist, would seek out newly qualified Psychologists and entice them with a substantial monthly salary.</li><li>▪ In turn, he would then open new practices, allegedly unbeknownst to the individual Psychologists and submit multiple claims under practices in their names, while in fact no services were rendered to the members for whom claims were submitted.</li><li>▪ The Psychologist and an accomplice (General Practitioner) were arrested in December 2017, and release on bail. The case is still on the court roll.</li></ul>



# Example of the extent to which practices are linked



# Investigation Example 3

Modus Operandi	Hospital Cash Back Plans
Discipline	Private Hospital
Number of practices involved	1 primary practices
Allegation	<p>A review of the hospital claims showed <b>unusually <u>low</u> pathology and radiology costs</b>, when compared to the number of admissions at the facility and based on the claims submitted.</p> <p>Additional tip-offs were received in which the anonymous caller suggested that the admissions were unnecessary and that hospital stays were extended when not required</p>
Findings	<p>The claims profile was reviewed for the facility and the associated providers who consulted with GEMS members and irregularities were identified, namely:</p> <ul style="list-style-type: none"><li>• The owner was the top admitting provider in addition to a dietician also practicing at the facility;</li><li>• Irregular claims were submitted related to tariff codes 0109 (hospital follow-up) and 0210 (collection of blood specimens) by the admitting provider;</li><li>• <b>Claims for in-hospital patients submitted with no referral provider by the dietician;</b> and</li><li>• <b>Facility admitted more patients than its licensed bed-capacity.</b></li></ul>

# Investigation Example 4

<b>Modus Operandi</b>	<b>Irregular claims outside scope of practice</b>
<b>Discipline</b>	<b>Nursing</b>
<b>Number of practices involved</b>	<b>1 primary practice</b>
<b>Allegation</b>	<ul style="list-style-type: none"><li>▪ A review of the provider's profile raised concerns inter alia about the qualifications required in order to render home dialysis services.</li><li>▪ The Scheme is of the view that a nephrology certificate (an additional qualification available to registered nurses) was required.</li><li>▪ GEMS also had concerns about the dialysis equipment used by the provider and whether the equipment was being properly serviced and calibrated, especially given the amount of travelling involved.</li></ul>

# Investigation Example 4

## Modus Operandi

## Irregular claims outside scope of practice

## Findings

- Initially the provider charged her patients an **equipment hire fee of R1 050.00 per session** of about **three hours** (in addition to the GEMS prescribed tariff of R901.70 per session for rendering home dialysis services).
- However, within a short space of time, the provider **increased these charges exponentially**, so much so that during October 2018 to February 2019, she had been regularly charging her patients **an equipment hire fee of R70,000.00, R75,000.00, R83 000.00 and even R88 500.00 per session.**
- Sums of R70 000.00 and R83 000.00 were **often charged more than once per day.** For instance, on 27 October 2018 the provider submitted three claims of R70 000.00 each for equipment hire, totalling the sum of R210 000.00 for that day.
- These charges have to be viewed in the context of the replacement value of the dialysis equipment used by the provider which is estimated at approximately R160 000.00.
- In context, therefore, **the purchase of a new machine costs R160 000.00, but the provider has charged a rental of up to R210 000.00 for use in a single day.**

# Investigation Example 4

## Modus Operandi

## Irregular claims outside scope of practice

## Findings

- GEMS rule 06 read with tariff code 302 (governing services by registered nurses in private practice) stipulate that, inter alia, the following provisions will govern claims submitted under tariff code 302 in relation to “Equipment: hire and sales”: -
  - Hiring equipment: 1% of the current replacement value of the equipment per day;
  - The total charge should not exceed 50% of the replacement value;
  - Description of the equipment to be supplied;
  - Payment of this item is at the discretion of GEMS and should be considered in instances where cost savings can be achieved; and
  - By prior arrangement with GEMS.
- During the period **3 February 2019 to 15 February 2019 (13 days) the provider charged R503 700** for home dialysis services and equipment hire to one of her patients
- During the period **4 February 2019 to 13 February 2019 (10 days), the provider charged R406 750 for home dialysis services and equipment hire to another one of her patients**
- Due to the **inflated and excessive claims submitted by the provider** the GEMS Claims Risk Forum Sub-Forum considered the matter and decided to terminate provider from direct payment. GEMS also demanded repayment of the excessive amounts inadvertently paid to the provider but she failed to repay

# Investigation Example 4

## Modus Operandi

## Irregular claims outside scope of practice

## Litigation history

- First application before the Competition Tribunal. The provider withdrew her application before the Tribunal after a meeting with GEMS and an agreement to resolve the issues.
- Second application before the Competition Tribunal. The provider applied for relief against the administrator of GEMS, where after GEMS applied to be joined and opposed the application.
- Second application before the Competition Tribunal (Cont.) The provider made accusations of fraud and corruption against medical doctors, against the HPCSA in that certain doctors intimidated patients not to make use of the provider's services and against the Department of Health wherein she accused the Department of concealing facts and findings in a report.
- The provider abandoned the application and stated that the Notice of Motion and Founding Affidavit will be refiled as the current notice of motion has no direct impact on GEMS in terms of the Competition Act..."
- Third application before the Competition Tribunal. The provider launched another application in which she sought various forms of interim and final relief against GEMS under section 4(1) (a), (b) (i) and (ii) and section 8 (d) (i) of the Competition Act 89 of 1998, including that:
  - GEMS settles in full all the applicants claims submitted since 1 November 2018 till 5 March 2019 which has allegedly been approved and illegally withdrawn which will force the applicant to close down its practice;
  - GEMS be interdicted from making use of "its dominance to compel customers not to make use of the provider's services by placing the provider on indirect payment".
- **The Competition Tribunal dismissed the provider's application and the Tribunal.**

# Investigation Example 4

## Modus Operandi

## Irregular claims outside scope of practice

## Litigation history

### Urgent application by the provider in the Western Cape High Court

- The provider launched a purported urgent application in the Western Cape High Court. The provider sought payment, on an urgent basis, of claims submitted to GEMS by the provider and also sought an interim interdict “... barring the Plaintiff [GEMS] from contracting a Designated Service Provider in the following areas namely Lutzville, Vredendal, Papendorp, Klawer and Strandfontein on the West Coast as the Applicants are the only service provider that provides renal dialysis in those areas.”
- GEMS opposed this application and raised concerns about the motive in bringing the application, given that the disputes were already sub judice in the trial action and, furthermore, given that the provider and were seeking to obtain a court order excluding competition from the above areas to the detriment of dialysis patients in need of treatment.
- **The urgent application was heard on 23 August 2019 and was dismissed with costs as the court found that the application amounted to an abuse of process and further due to the relief not having been urgent.**

# Investigation Example 5

<b>Modus Operandi</b>	<b>Refund Scam</b>
<b>Discipline</b>	<b>Clinical Psychologist</b>
<b>Number of practices involved</b>	<b>1 primary practices</b>
<b>Allegation</b>	A review of the Clinical Psychologist practice revealed that irregular claims were submitted for services rendered in that the provider's working hours (hours he saw patients) exceeded 24 hours per day whilst he was a single provider practice.
<b>Findings</b>	<ul style="list-style-type: none"> <li>▪ During the period <b>1 January 2013 to 31 December 2017, member refunds in the sum of R25.05m were paid</b>, ostensibly for services provided by the provider.</li> <li>▪ In <b>96.13% of instances, the provider applied the ICD10 code F32.2</b> (Severe depressive episode – without psychotic symptoms) with the total member refunds for this tariff code being <b>R24.08m</b>.</li> <li>▪ A sample of member profiles, which were responded to on behalf of GEMS to the CMS, <b>revealed excessive charging of ICD F32.2</b> (Severe depressive episode – without psychotic symptoms).</li> <li>▪ The medical advisor informed the Scheme that given the treatment one would expect chronic medication and follow-up consultations/group session and/or admissions into a mental health facility.</li> <li>▪ The majority of member profiles did not have evidence of chronic medication of admission to a mental health facility, yet members provided proof of payment and an invoice which shows services were rendered and members paid the accounts in full at the last consultation, with amounts varying between R3,500 and R5,500.</li> </ul>

# South African private medical professionals and facilities tariff guides

- Historically the **Medical Association of South Africa (MASA)** and the **Representative Association of Medical Scheme (RAMS)** used to publish tariff guides and fees for the private medical professionals and facilities in South Africa.
- The scale of benefits fees prescribed by MASA were used to determine reimbursement of medical professionals and facilities. Private healthcare professionals were allowed to charge their own fees which were not always in line with RAMS rates.
- This function was later taken over by the **Board of Healthcare Funders (BHF)**.
- **After the 1994 general elections, the National Department of Health (NDoH) assumed responsibility** of the tariff management process and the tariff guides' name was then changed from BHF to **National Health Reference Price List (NHRPL)**.

# Annual proposals for the NDoH tariff guide

**Each year**, per the request from the NDoH, **private medical professionals and facilities would submit their proposals** to the department for incorporation into the next year tariff guide for industry participants' review and comments.

The proposals included the following:

- Introduction of new codes, code description changes and deletion of obsolete codes, (these are owned by medical professionals, facilities and their respective societies/ associations as subject matter experts) and
- Change in relative value units (RVU) for procedures after a thorough financial analysis. Take note that the final official published RVU for the items is owned by the NDoH.
- The submissions would be reviewed further by the NDoH with consequent consolidation and summary of the submissions for further comments by industry stakeholders (second review).
- Should there be no further comments from industry participants after the second review, the NDoH would summarise the submissions and consolidate into the following year's final official tariff guides.

# CMS Tariff Management

- During 2005, the tariff management role was then handed over to the Council for Medical Schemes. The name changed from NHRPL to Reference Price List (RPL) and the last collaborative process took place in 2006.
- Submissions by participants were overlooked with subsequent publications and as result, they were invalidated by the Pretoria High Court in July 2010 after various organisations in the industry took the NDoH to court, the case details are below.
- Hospital Association of South Africa Ltd v Minister of Health and Another, ER24 EMS (Proprietary) Limited and Another v Minister of Health and Another, South African Private Practitioners Forum and Others v Director-General of Health and Others (37377/09, 37505/09, 21352/09) [2010] ZAGPPHC 69; 2010 (10) BCLR 1047 (GNP) ; [2011] 1 All SA 47 (GNP) (28 July 2010)
- The Pretoria High Court ruled against NDoH as due process in submission and review of codes in the years subsequent to 2006 had not been followed and hence rendered them invalid. The Pretoria High court ruled that the last official NHRPL guide was the 2006 publication.
- **As a result here has been no official tariff guides publications by the NDoH since 2006.**

# GEMS Coding

- In response to the absence of the updated official tariff gazette, medical professionals, through their different professional societies and associations have been updating their tariff guide without industry participants' discussion since 2007.
- The updates aim to incorporate improved ways of undertaking medical procedures and address advances in medical technology, and eventually address and enhance the outdated tariff guides.
- Across the private healthcare industry the 2006 NHRPL is the official published tariff guide for private health care professionals in South Africa.
- GEMS utilises the NHRPL 2006 as the basis for billing and tariff management and recently conducted a comprehensive GAP analysis between the GEMS tariff file and industry tariff files , i.e. SAMA, SADA, SAPS Chiropractors, to name but a few.
- The **GEMS tariff file for 2020 is thus the most updated version representative of industry tariff file.**

# **GEMS interpretation and implementation of section 59(2) and 59(3) of the Act; Regulations 5 and 6 of the Regulations**

**Ms Anita du Toit**



# Legal – Section 57

GEMS has consistently endeavoured to conduct itself in accordance with all the laws of our country. In what follows below, we set-out our understanding of the legal principles relevant to the medical scheme environment and the matters forming part of the terms of reference of the Panel.

## Section 57 and the fiduciary duties the BOT towards the members

### 57 General provisions on governance

(1) Every medical scheme shall have a board of trustees consisting of persons who are fit and proper to manage the business contemplated by the medical scheme in accordance with the applicable laws and the rules of such medical scheme.

(6) The board of trustees shall-

- (a) take all reasonable steps to ensure that the interests of beneficiaries in terms of the rules of the medical scheme and the provisions of this Act are protected at all times;
- (b) act with due care, diligence, skill and good faith;
- (c) take all reasonable steps to avoid conflicts of interest; and
- (d) act with impartiality in respect of all beneficiaries...

**In the matter of Yarona Healthcare Network (Pty) Ltd v Medshield Medical Scheme** the court held that:

*Members of medical schemes are particularly vulnerable to abuse. Many of them earn modestly. If the funds which should be administered for their benefit are abused, they stand not only to lose moneys deducted from their earnings but to have their access to health care jeopardised.”*

# Legal - Relationship between the scheme and its members

## In the Genesis case the court held that:

**“the definition [of “business of a medical scheme]” posits two contracting parties, and a mutual exchange of value (quid pro quo). The parties, obviously, are the scheme and its member. The quid pro quo is that the scheme undertakes liability — the kinds spelled out in the definition in exchange for money. The statute calls this 'a premium or contribution'...**

# Legal – Section 59, Regulation 5 and Regulation 6

**GEMS's understanding of the MSA and the Regulations is that if it was the intention of the legislature that all claims should be finally adjudicated within 30 days, it would not have included Section 59(3) which enables schemes to recoup losses of undue claims which it had paid out bona fide.**

**The question then is, what is the purpose of Regulation 6 and when should the process stipulated therein be followed?**

- **GEMS holds the view that Regulation 6 should be interpreted in the context of Regulation 5.**
- **Regulation 5 clearly stipulates what information an account, statement or claim should include before a medical scheme can make payment thereof.**
- **It is submitted that Regulation 6 is not intended to apply in cases where FWA features (especially fraudulent or other invalid claims which are not ex facie the account, statement or claim fraudulent or invalid), since it would not be possible for a scheme to fully and finally adjudicate claims accordingly within the limited time period provided.**

# Legal – Investigations, suspension and termination of direct payment

## Rule 15.6

“The Scheme shall suspend the payment of a claim or a request for reimbursement to a provider in the event of an investigation pertaining to alleged fraudulent or irregular activity, in respect of the Member, any of his or her Dependants, the provider or the claim or request itself, except where to do so in particular circumstances would not be in the best interests of the Scheme, in the absolute discretion of the Board. The Scheme may in accordance with Rule 17.5 make payment of the full amount of a claim or a request for reimbursement, or the valid portion thereof which is not under such investigation, directly to the Member to whom services were rendered, upon submission of a claim or a request for reimbursement in relation to those services by the Member.”

## Rule 17.3

“The Scheme may, pay any claim in accordance with the member’s Benefit Option, directly to the supplier (or group of suppliers) who rendered the service.”

## Rule 17.5

“Notwithstanding the provisions of this rule, the Scheme has the right to pay any benefit directly to the Member concerned.”

# Legal – Section 59, Regulation 5 and Regulation 6

- It is submitted that Regulation 6 is not intended to apply in cases where FWA features (especially fraudulent or other invalid claims which are not ex facie the account, statement or claim fraudulent or invalid), since it would not be possible for a scheme to fully and finally adjudicate claims accordingly within the limited time period provided.
- GEMS is of the view, that should providers require that all claims should be fully adjudicated to prevent future investigations, schemes should be afforded at least 90 days to adjudicate all claims.
- Investigations, suspension and termination of direct payment
- **Charges by suppliers of service**

(2) A medical scheme shall, in the case where an account has been rendered, subject to the provisions of this Act and the rules of the medical scheme concerned, pay to a member or a supplier of service, any benefit owing to that member or supplier of service within 30 days after the day on which the claim in respect of such benefit was received by the medical scheme.

# Legal – Section 59 (2) – Case Law

GEMS's interpretation of Section 59(2) has been considered by our courts as well as by the CMS, upholding the above application by GEMS of the relevant principles.

## Twala v Allcare Administrators (Pty) Ltd & Other

In **Twala v Allcare Administrators (Pty) Ltd & Other**, it was held by Prinsloo J that: “the [medical Schemes] are by statute authorised to decide whether to pay the doctor or the patient directly. [The Court] referred to section 59(2) of the [MSA]. [The Court] also referred to paragraph 17.5 of the [Schemes'] rules, which contains a similar clear provision.”

## Tshwane Pharmacy v Government Employees Medical Scheme

In the case of **Tshwane Pharmacy v Government Employees Medical Scheme** (Case Number: 28532/11 in the North Gauteng High Court), Southwood J summed up the effect of the provisions of Section 59(2) as follows:

*“Interpretation of section 59(2).*

*[9] ... The subsection does not create an obligation for the Medical Scheme to pay the supplier.*

*[10] In any event, the subsection clearly provides that payment is subject to the rules of the medical Scheme which state unambiguously that the respondent has the right to pay either the member or the supplier of the service (Rules 15.7, 17.3 and 17.5”).*

# Legal – Section 59, Regulation 5 and Regulation 6

- (3) Notwithstanding anything to the contrary contained in any other law a medical scheme may, in the case of-
  - (a) any amount which has been paid bone fide in accordance with the provisions of this Act to which a member or a supplier of health service is not entitled to; or
  - (b) any loss which has been sustained by the medical scheme through theft, fraud, negligence or any misconduct which comes to the notice of the medical scheme, deduct such amount from any benefit payable to such a member or supplier of health service.”
- One has doubts about this proposal. Should it not rather be left out?

## Legal – Section 59 (2) – Case Law

### **GEMS v Council for Medical Schemes & Others**

In **GEMS v Council for Medical Schemes & Others**, the service provider, had received notice that payment would henceforth be effected directly to members, yet chose to continue to make claims to GEMS. Goldblatt J held that any contractual nexus was terminated once notice of the change in payments process was given and therefore it “had no right to claim payment from GEMS”. The court held as follows:

*“without a specific contract between a scheme and the service provider no debt owing by the scheme to the service provider is created merely by such provider rendering services or supplying goods to members of the scheme.”*

### **Medscheme Holdings (Pty) Ltd and Another v Bhamjee**

The Supreme Court of Appeal in **Medscheme Holdings (Pty) Ltd and Another v Bhamjee** 2005(5) SA 339 (SCA) also held a similar view where the court stated:

*“Dr Bhamjee was not entitled to insist that the schemes continue supporting his practice by accepting his claims directly.”*

## Legal – Section 59 (2) – Case Law

### Margate Clinic (Pty) Limited v Genesis Medical Scheme

In the matter of Margate Clinic (Pty) Limited v Genesis Medical Scheme 2007 (4) SA 639 (D), the court found that

*the scheme might choose to accept claims directly from the service providers, which holds out advantages for members and for service providers alike. But that entails some risk to the scheme. Clearly the scheme will be unable in practice to verify each of what will often be numerous claims...*

*“it is true that, unless and until the service provider has in fact been paid, there is an amount “owing” to the service provider. But that amount is owed by the member, not the Scheme”*

### Bane and Others v D'Ambrosi

It was held in **Bane and Others v D'Ambrosi 2010 (2) SA 539 (SCA)** that:

*“payments which the medical aid was and is obliged to make to [their member] constitute the discharge by the medical aid of contractual obligations flowing from the contract concluded between it and [its member]. As such they constitute res inter alios acta and [health service providers] cannot claim the benefit of them.”*

## Legal – Section 59 (2) – Case Law

**Sechaba Medical Solutions (Pty) Ltd & Others v Life Healthcare Group (Pty) Ltd & Others**

where prior authorisation had been given, thereby establishing a contractual foundation for the claims.

**GEMS v Refilwe**

As recently as 31 May 2019, in the matter of **GEMS v Refilwe**, the Appeals Committee of the CMS upheld the principle of termination of direct payment and added that:

*“It is common practice that members pay the providers and then submit their claim to the Scheme to reimburse them.”*

# Legal – Section 59, Regulation 5 and Regulation 6

## **Section 59(2) and the list of providers who have been terminated from direct payment published by GEMS on its website.**

Once a provider has been terminated from direct payment:

- The member remains responsible for the provider's account in terms of the member's contractual relationship with the provider (provided that the services have validly been rendered), which the Scheme will then refund to the member in accordance with the benefits which the member is entitled to once the account is submitted to the Scheme by the member together with proof of payment.
- The provider is duly informed in writing (the standard wording is quoted below) and advised of the process the member will have to follow if he/she chooses to obtain services from the service provider:

“As provided for in Section 59 of the MSA, GEMS members will receive direct payment from the Scheme for the procurement of healthcare products and services rendered by you. This means that your claims will not be considered and you will be required to recover such costs from members directly. The GEMS member concerned will be responsible for submitting the claim for the services rendered with a valid proof of payment and in line with the Scheme Rules.

# Legal – Section 59, Regulation 5 and Regulation 6 (Cont.)

**We encourage that you support members in providing them with all the relevant documentation they would require in submitting claims to the Scheme to pay them. For ease of reference, this is detailed below.**

The claim submission must include proof of payment in the form of:

- A valid stamped receipt from the healthcare provider with the corresponding detail; and
- Proof of payment in the form of an electronic fund transfer (EFT) slip or credit card payment voucher with provider details corresponding to the claim reference; or
- Proof of payment in the form of a bank deposit slip with provider details corresponding to the claim reference.”

Despite this, there are still service providers who opportunistically render services to our members without informing them that they have been terminated from direct payment. This results in the member having incurred a liability towards the service provider directly.

# Legal – Section 59, Regulation 5 and Regulation 6 (Cont.)

Examples highlighted in our written submission, clearly illustrate this point.

From the preamble of the MSA it is apparent that one of the purposes of the Act is to “protect the interests of members of medical schemes”.

It is also GEMS’ mission to, inter alia, promote member wellbeing.

It is for the above reasons that GEMS made available to its members the list to enable them to make the election on whether to obtain services from a provider who is terminated from direct payment or from another provider to avoid members being placed in a financial predicament when faced with a bill after having obtained the services.

It should also be noted that where members fail to make payment, service providers often resort to blacklisting these members which can have a detrimental effect on the members’ creditworthiness. The list was purely factual in nature, it relayed the current status quo to the GEMS members, for their protection.

## Legal – Section 59, Regulation 5 and Regulation 6 (Cont.)

The list did not prevent the member from utilising the services of a service provider on the list - the member was entitled to obtain services from the provider and the member would have been duly reimbursed by the Scheme upon receipt of proof of payment of the services rendered.

At the time GEMS was of the view that the list was an appropriate tool to enable GEMS members to make informed decisions as to who to obtain services from and the possible personal financial ramifications.

The list has recently been removed from the GEMS website. This was not done because GEMS was convinced that publishing the list was unlawful in any way, but because it did not serve its purpose. Members do not regularly visit the GEMS website to have regard to the list which would have enabled them to consider which providers to obtain services from.

In light thereof the list was removed and GEMS is investigating other means to convey relevant information to its members.

## Legal – The principle of *audi alteram partem*

When it comes to investigations conducted by GEMS, even though the investigations do not amount to administrative action, the provider is always afforded an opportunity to respond

It has to be said that certain information is not given to the providers, for example the names of whistle-blowers as well as the names of the provider's peers when he/she has been flagged as an outlier. GEMS is of the view that it is not necessary for the provider to have this detail to enable him to respond to the allegations. The provider is to be given only the "gist" of the case he/she has to answer to.

# Legal – Consent

The issue of consent does not fall within the terms of reference of the Panel, but it has been addressed at length by some of the providers and/or societies. GEMS does not agree with the contentions advanced during the public hearings and thought it appropriate to ventilate its views on the issue.

## Legislative framework

There are four statutes that are considered in relation to the aspect of member consent and personal (medical) information being shared with a third party. The legislative framework is as follows:

- MSA;
- National Health Act 61 of 2003 (“the NHA”);
- Protection of Personal Information Act 4 of 2013 (“POPI”); and
- Mental Health Care Act 17 of 2002 (“MHCA”)

# Independent analysis and response to Racial Discrimination in Identifying FWA report by Dr Zaid Kimmie

Mr Craig Getz and Prof Paul Fattie



# Conclusion and Recommendations

Dr Stan Moloabi



# Conclusion

**Section 59** and the application thereof is a complicated topic

It is a **necessary tool** for medical schemes in order to **protect the interests of their members and the schemes' ability to continue performing their mandate**

GEMS put requisite processes in place and continues with its endeavours to ensure that due processes are followed during its investigations, and that **decisions that are taken are not arbitrary**

These processes are also constantly evolving to adapt to any additional requirements and changing landscapes. **GEMS acknowledges that there is room for improvement.**

**GEMS' FWA processes do not involve considerations of race, and that GEMS does not, and never has, conducted racial profiling of healthcare providers.**

It is submitted that any introduction of racial data to medical scheme processes should not be considered lightly.

# GEMS focus is on increasing access where historical inequality and need is the most

GEMS is a large organisation that has **no motive** to and **does not discriminate** against **black healthcare providers**

Transformative  
by design

Almost 2 million  
beneficiaries

MSA  
Compliance

> 1 million  
previously  
uncovered lives

Good  
governance

R40 billion in  
contributions

Financially stable  
and sustainable

> 95 million  
claim lines

Protects  
member  
interests

Fights  
medical fraud

Follows the  
legal route

Does not  
incentive  
recoveries

Pursues  
sanctions and  
rehabilitation

# Based on the analysis, GEMS is not guilty of racial profiling

There is no explicit racial bias in the analytics systems used to identify potential FWA cases  
(Dr Kimmie's presentation: Slide 5)

Methodology	Dr Kimmie's methodology	Dr Kimmie's methodology excludes institutional and state facilities and group practices	Correcting for exposure as majority of GEMS members visit black healthcare providers	Independent and unequivocally unbiased Vuvuzela Hotline
% Black practitioners more likely to be flagged as possibly guilty FWA than non-black practitioners	78%	54%	47%	45%

There has to be another explanation than GEMS is racially profiling  
Panel should recommend further work to understand this outcome

# GEMS Recommendations

- **GEMS acknowledges that the present inquiry is necessary against the backdrop of the history of our country and that the complaints received have to be investigated.**
- **Universal health coverage and transformation in the industry is very important and GEMS continuously strives to find new ways to facilitate this and other industry role players should endeavour to do the same.**

# GEMS Recommendations

## Racial profiling

**1**

**It has been submitted to the panel that schemes do not provide for the inclusion of data reflecting the race of providers in their systems, nor is it included in the BHF provider file that is shared with administrators. GEMS confirms that this is correct and that its systems also do not contain a race category.**

**2**

**GEMS submits that bearing in mind the facts that have been presented to the Panel, that GEMS is involved in any form of racial profiling.**

**3**

**GEMS is of the view that it is not necessary or advisable to include racial data in its provider files. Should racial data be included in a scheme's database, it might, ironically, result in racial profiling and also create room for other possible unintended and currently imponderable consequences.**

**4**

**If schemes were to be compelled by law to include racial data in the schemes' databases, clear and careful guidance will be required of what schemes are required to do with such information when it comes to their investigation processes**

# GEMS Recommendations

## Section 59 and FWA

**5**

**FWA is common and endemic in the industry and medical schemes need to have the option of mitigating their risk.**

**6**

**Accordingly, the concepts of suspension of payment, termination of direct payment and recoveries of illicit funds should be options that remain open to the schemes. In other words, the provisions of Section 59 should continue to allow schemes to implement the necessary measures. It is pointed out that the HMI did not take issue with Section 59 or the implementation thereof.**

**7**

**GEMS continuously endeavours to adhere to the principles of natural justice. GEMS has good governance. It follows King III and IV principles and it functions in an environment that is policy driven.**

**8**

**The Panel recommendations pertaining to investigations and sanctioning which would balance the right of the schemes to protect the interests of the scheme members and the interests of providers, will be welcomed by GEMS.**

# GEMS Recommendations

## Lack of education and training

- 9** Some issues which were brought to light during the inquiry, which were already to some extent known to the industry, is the lack of education and training of providers in relation to coding and good business practice.
- 10** The providers should take responsibility to ensure that they acquire the necessary training and skills and that they are kept abreast of developments, as is required of all professionals
- 11** GEMS is already providing assistance with the education of providers by introducing GP summits.
- 12** GEMS recommends that coding and good practice should be added to the curriculum of the medical professionals' respective tertiary qualifications.
- 13** Alternatively, it should be mandatory for medical professionals to attend to training workshops prior to being allocated a practice number by the BHF

# GEMS Recommendations

## Regulatory bodies, SAPS & the National Prosecuting Authority (“NPA”)

- 14** One of the biggest challenges in these processes is the dysfunction of the regulatory bodies.
- 15** If the investigation and sanction processes could have been monitored by the regulatory bodies, a number of issues would be eradicated.
- 16** GEMS has engaged some of these bodies and it is not necessarily incompetence but in most cases it is a lack of resources to tackle all the problems a regulatory body is required address.
- 17** The Competition Commission in the Health-Market Inquiry (“HMI”) report also noted the many serious supply side challenges relating to the conduct and structure of the providers of healthcare. They recommend the establishing of the “Supply-Side Regulator of Health” (“SSRH”).
- 18** GEMS is of the view that the functioning of the current regulators should be measured and corrected before an additional body can be established as well. Unfortunately, investigations and prosecutions by the SAPS and the NPA often render sub-standard results.

# GEMS Recommendations

## Engagements

**19**

**GEMS has always encouraged engagement with providers, provider societies, the regulatory bodies and SAPS.**

**20**

**Stakeholder engagement is imperative and the relevant role players have to be encouraged to participate.**

**21**

**Engagement with providers is also essential – GEMS representatives are always willing to avail themselves to meet with a provider**

**22**

**The providers are also entitled to be represented at the meetings by the relevant society or an attorney, etc.**

# We are one race, the human race



# Thank you



Working towards a healthier you

