



OVERVIEW OF THE NHI AND ITS
IMPLICATIONS ON THE INTERGOVERNMENTAL
SYSTEM AND THE CURRENT FISCAL
ARRANGEMENTS

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1 June 2016

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For an Equitable Sharing of National Revenue

OUTLINE

- FFC role and mandate in terms of powers and functions
- NHI implication for the provincial fiscal framework
- NHI implications for IGR accountability
- Funding and institutional arrangements
- Contracting arrangements and access to health
- Conclusion



FFC ROLE AND MANDATE PERTAINING TO POWERS AND FUNCTIONS

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ROLE AND FUNCTION OF THE FFC

- The Financial and Fiscal Commission (FFC)
 - Is an independent, permanent, statutory institution established in terms of Section 220 of Constitution
 - Must function in terms of the FFC Act
- Mandate of Commission
 - To make recommendations, envisaged in Chapter 13 of the Constitution or in national legislation to Parliament, Provincial Legislatures, and any other organ of state determined by national legislation
- The Commission's focus is primarily on the equitable division of nationally collected revenue among the three spheres of government and any other financial and fiscal matters
 - Legislative provisions or executive decisions that affect either provincial or local government from a financial and/or fiscal perspective
 - Includes regulations associated with legislation that may amend or extend such legislation
 - Commission must be consulted in terms of the FFC Act

MANDATE OF FFC W.R.T POWERS AND FUNCTIONS

- FFC draws its mandate from a number of legislations:
- Section 238 (a) of the Constitution – allows an executive organ of state to delegate a power or function to another organ of state.
- FFC Act of 1997 as amended
- Section 9(4) of the Municipal Systems Act of 2000
 - Requires a Cabinet member/Deputy Minister/MEC initiating a function assignment to request the Commission to make an assessment of the financial implications

PROCESS OF ASSIGNING POWERS AND FUNCTIONS

- FFC Act Section 2(2D) requires that before seeking to assign power or functions, the organ of state must in the case of:
 - National government, obtain written approval of the National Treasury
 - Provincial government, obtain written approval of the Provincial Treasury
- Section 3(2A)
 - Notify the FFC of the fiscal and financial implications of such assignment on:-
 - the future division of revenue between the 3 spheres of government;
 - in the case of an assignment to provincial or local government, the fiscal power, fiscal capacity and efficiency of the relevant province or municipality; and
 - any transfer of employees, assets and liabilities, if any; and
 - Request the recommendation or advice of the Commission regarding the assignment
 - The Commission must, make a recommendation or give such advice within 180 days
 - An assignment has no legal force unless the Commission's recommendation or advice has been considered

CHECKLIST FOR ASSESSING THE FUNCTION SHIFT

- In 2007 the FFC developed a function shift manual to assist the assigning organ of state in conducting the fiscal and financial assessments
 - Outlines a number of approval processes to be adhered to
 - The manual makes a distinction between various options for function shift – delegation, assignment and deconcentration.
- General principle underlying any function shift is that **FUNDS FOLLOW FUNCTION**



FINANCIAL
AND FISCAL
COMMISSION

FFC assessments seek to safeguard the institutional and fiscal integrity of subnational governments

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KEY FISCAL AND FINANCIAL CONSIDERATIONS FOR FUNCTION SHIFTS

- Section 27 (2) of DORA requires that the equitable share and conditional grants for funding the function must be transferred to the receiving sphere
- Section 32 of PFMA requires estimates of financial implications to accompany draft legislation amending powers and function to parliament
- Other key considerations in the FFC manual include
 - Budget and planning process
 - Transfer of budget and liabilities
 - Human resource implications



NHI AND THE PROVINCIAL FISCAL FRAMEWORK

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PROVINCIAL FISCAL FRAMEWORK

- Section 227 of the Constitution entitles provinces to an equitable share of nationally raised revenue.
- The Equitable share is intended to fund provincial mandates outlined in schedule 4 and 5 including health care services as a concurrent responsibility
- The Constitution does not prescribe the various aspects of health care services to be performed by either national or provincial government
 - The National Health Act makes this determination and assigns PHC, Ambulance and Emergency services as a provincial competence

CONCURRENT FUNCTION AND NHI REFORMS...(1)

- NHI reforms potentially entail a function shift of a special kind
 - Shifting of **funding** without necessarily the **function**
 - Provinces as providers could still be responsible for delivering health services albeit without control of the budget
- The NHI multi (agency) delivery and asymmetric accountability system may complicate concurrency
 - Contracted health care providers are accountable to the NHI fund
 - The model places delivery responsibility of individual units of care providers



• Separating funding from delivery agents may cause accountability and common pool problems

CONCURRENT FUNCTION AND NHI REFORMS...(2)

- The proposal potentially constitute a deviation from general practice – *where national government set national policies and provinces implement*
- The residual role of provinces must therefore be spelled out clearly
- Are there other delivery permutations in which provinces act as purchasers and have these been explored?



INTEGRATING NHI DELIVERY MECHANISM INTO THE CURRENT IGRF ACCOUNTABILITY FRAMEWORK

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FISCAL ACCOUNTABILITY IMPLICATIONS

- NHI creates many layers of accountability
 - PHC structures are accountable to District Health Management Offices (DHMO), hospitals are held to account by Hospital boards, Office of Health Standards Compliance by the NHI Fund
- There is a need for clarity on how these structures will be integrated into the current IGR accountability arrangements in particular provincial legislatures.



FUNDING AND INSTITUTIONAL ARRANGEMENTS

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NHI FUND IN DECENTRALISED IGFR SYSTEM

- The Constitution envisaged a fiscally decentralised system in which provinces have a degree of autonomy
- Resource allocation in a purchaser provider split potentially curtail provincial spending discretion
 - The purchaser determines funding allocations across jurisdiction and health care activities
- This configuration de-facto affects the vertical and horizontal division of revenue



– Section 214 outlines factors that should inform vertical and horizontal division of revenue

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PURCHASER PROVIDER AND THE FISCAL SYSTEM

- The Constitution did not envisage a system in which provinces are contracting agents to national government
 - Conditional funding is best suited for this arrangement
- Fulfilment of mandates by provinces with funding held elsewhere *may* be problematic
- Core function of provinces cannot be funded by conditional grant
 - Section 41 of the Constitution states that the functional and institutional integrity of provinces must be respected

PURCHASER PROVIDER AND THE FISCAL SYSTEM

- The equitable share as an unconditional transfer may not be allocated on a sectoral basis
- It cannot be distributed in separate parts through sister national departments nor can it come with binding conditions
 - NHI fund resembles a block grant
- The Grant nature of NHI Fund (provider payments) needs therefore to be clarified
 - This will be necessary to ascertain the various aspects of health inputs catered for by the PES and provider payments

INSTITUTIONAL ARRANGEMENTS FOR NHI IMPLEMENTATION

- NHI would entail extensive reorganisation of health delivery architecture
- DHMO to become the key health delivery platform
 - Clarity is required on how DHMO will be financed and held accountable
 - Clarity is also required on who contracts with service providers between DHMOs and the purchaser
- Distributional equity of service providers must be considered



CONTRACTING ARRANGEMENTS AND IMPLICATIONS FOR ACCESS TO HEALTH

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CONTRACTING ARRANGEMENTS

- NHI White Paper places the burden for meeting accreditation requirements with health care service providers
- Poor areas which lack quality health facilities may be disadvantaged
- Transitional funding support may be required to level playing fields
- *Are current conditional grants geared to achieve this purpose?*

OTHER PERTINENT POLICY QUESTIONS

- How to reconcile proposed central procurement with contracted health service providers?
- Who will be responsible for investing in new infrastructure (provinces, DHMOs, NHI fund)?
- Who will takeover the payroll function of the health care personnel when contracted health service providers have limited delegated authority?
- How do we maintain the fiscal and governance integrity of provinces?

CONCLUSION

- FFC welcomes the opportunity to make contributions to the NHI policy discussions
- It is of paramount importance that NHI implementation is compatible with the IGFR framework
- The institutional and fiscal integrity of sub-national government must be maintained and safeguarded
- The current IGFR policy framework enables various delivery permutations which can accommodate NHI reforms but these need to be clearly spelled out