
SOUTH AFRICAN REVENUE SERVICE

**TAX GUIDE ON THE
DEDUCTION OF
MEDICAL EXPENSES**

(Issue 2)

Another helpful guide brought to you by the
South African Revenue Service



TAX GUIDE ON THE DEDUCTION OF MEDICAL EXPENSES

Foreword

This guide provides general guidelines regarding the deductibility of medical expenses for income tax purposes. It does not delve into the precise technical and legal detail that is often associated with tax, and should, therefore, not be used as a legal reference. It is not a binding general ruling in terms of Part IA of Chapter III of the Income Tax Act, No. 58 of 1962 (the Act).

The guide examines –

- what comprises qualifying medical expenditure;
- what may be claimed as a deduction;
- who may claim such deduction;
- when it may be claimed;
- what certain terms mean and under which circumstances these terms apply; and
- the limitations applicable in the determination of the deduction.

This guide is based on the legislation as at 8 January 2008, including the amendments effected by section 30 of the Revenue Laws Amendment Act, No. 35 of 2007. As the year of assessment of an individual ends on the last day of February, these amendments are applicable to the years of assessment ending on or after 29 February 2008.

If an answer to your specific situation is not provided in this document, or you require additional information, you may –

- contact your local South African Revenue Service (SARS) branch;
- visit SARS website at www.sars.gov.za;
- contact your own tax advisors;
- if calling locally, contact the SARS National Call Centre on 0860 12 12 18; or
- if calling from abroad, contact the SARS National Call Centre on +27 11 602 2093.

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SOUTH AFRICAN REVENUE SERVICE

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Glossary

Unless the context indicates otherwise, the meaning of words, concepts and acronyms used in this guide, is the following:

Commissioner	: Commissioner for the South African Revenue Service
contributions	: medical scheme contributions
medical scheme	: medical scheme registered in terms of section 24(1) of the MS Act
MHC Act	: Medical Health Care Act, No. 17 of 2002
MS Act	: Medical Schemes Act, No.131 of 1998
SARS	: South African Revenue Service
SITE	: Standard Income Tax on Employees
tax year	: year of assessment
the Act	: Income Tax Act, No. 58 of 1962

1. Background

References in this guide to sections and paragraphs are to sections in the Act and paragraphs in the Seventh Schedule to the Act, unless otherwise stated.

As a rule, expenditure of a domestic or private nature is not deductible for tax purposes. However, an individual's cash flow (and hence ability to pay tax) may well be adversely affected by costs incurred as a result of illness or disability and for this reason a certain degree of relief is provided by the Act in respect of medical expenditure incurred and paid by a taxpayer. This relief is provided in the form of a deduction from your income of an allowance in respect of medical expenditure paid during the year of assessment (the medical allowance). Section 18 provides for the deduction of the medical allowance (see **Annexure 1**).

Medical expenses comprise –

- contributions paid to registered medical schemes;
- expenses paid in respect of professional medical services and prescribed medical supplies, which are not recoverable from a medical scheme; and
- other expenditure necessarily incurred and paid in consequence of any physical disability, which is not recoverable from a medical scheme.

These amounts will only be taken into account if they were incurred and paid in respect of yourself and certain other persons.

The amount allowable as a deduction in respect of contributions made to medical schemes will be subject to certain monetary limits known as “capped amounts”. The limits increase with the number of “dependants” you have enrolled on your medical scheme.

The amount allowable as a deduction in respect of the aggregate of the other medical expenses and the amount of contributions that exceeds the capped amount, will be limited to the amount that exceeds 7.5% of your “reduced” taxable income. If the aggregate amount is less than the 7.5% threshold you will not be allowed any deduction in respect of such expenditure.

The “reduced” taxable income is determined by reducing your taxable income by –

- the “capped” contributions to medical schemes; and
- any retirement fund lump sum benefits.

These limitations do not apply if –

- you are 65 years of age or older; or
- you, your spouse or your or your spouse's child suffers from a qualifying handicap.

2. Qualifying persons in respect of whom expenses may be claimed

Only qualifying expenditure incurred and paid in respect of yourself and certain other persons may be taken into account in the determination of the medical allowance. These other persons are your spouse, your children and your dependants, as described.

2.1 The meaning of “spouse”

The term “spouse”, defined in section 1 means —

in relation to any person, a person who is the partner of such person —

- (a) in a marriage or customary union recognised in terms of the laws of the Republic;
- (b) in a union recognised as a marriage in accordance with the tenets of any religion; or
- (c) in a same-sex or heterosexual union which the Commissioner is satisfied is intended to be permanent.

2.2 The meaning of “dependant”

The term “dependant”, defined in section 1 of the MS Act means —

- (a) the spouse or partner, dependant children or other members of the member’s immediate family in respect of whom the member is liable for family care and support; or
- (b) any other person who, under the rules of a medical scheme, is recognised as a dependant of a member.

2.3 The meaning of “child in relation to the taxpayer”

The term “child in relation to the taxpayer”, defined in section 18(4) means —

the taxpayer’s child or the child of his or her spouse who was alive during any portion of the year of assessment, and who on the last day of the year of assessment —

- (a) was unmarried and was not or would not, had he lived, have been —
 - (i) over the age of 18 years;
 - (ii) over the age of 21 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year; or
 - (iii) over the age of 26 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or
- (b) in the case of any other child, was incapacitated by physical or mental infirmity from maintaining himself or herself and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of the year of assessment:

Provided that any child of the taxpayer who has become liable for the payment of normal tax in respect of any year of assessment solely by reason of the provisions of section 5(1A) shall be deemed for the purposes of this section not to have become liable for the payment of normal tax in respect of such year.

The reference in the proviso to section 5(1A) is to the situation in which a person is liable for SITE. SITE is currently levied on the first R60 000 of net remuneration.

To qualify for a deduction of medical expenses paid in respect of a child, the child must be your own child or that of your spouse. The following children are excluded for purposes of the medical allowance:

- A foster child (the period for which the child is in your care does not play any role).
- A child who has not yet been legally adopted.
- A child who is under your custodianship.

Nevertheless, you can claim medical expenses in respect of such a child if the child was admitted as a “dependant” in terms of your medical scheme at the time the expenses were paid.

3. Qualifying contributions and expenses and their applicable limitations

Qualifying contributions and expenses (as referred to in **3.1.1** and **3.2.1**) consist of the following:

- Contributions paid to a registered medical scheme for yourself, your spouse and your dependants as described (qualifying contributions).
- Expenses paid in respect of medical services and prescribed medical supplies for yourself, your spouse, your or your spouse’s children or your dependants as described (qualifying medical expenses).
- Other expenditure necessarily incurred and paid in consequence of any physical disability suffered by you, your spouse, your children or your dependants as described (qualifying disability expenses).

The medical allowance in respect of these contributions and expenses is subject to the “capping of contributions” and “7.5% of taxable income” limitations discussed in **3.1.2** and **3.2**.

3.1 Contributions to medical schemes

Qualifying contributions will be taken into account in the determination of the medical allowance.

Contributions must have been paid **in respect of** a specific tax year in order to be taken into account for that tax year. This means that contributions paid in tax year 2 which relate to tax year 1 may only be claimed in tax year 1.

3.1.1 Qualifying contributions

a) Contributions paid by you

Any contributions paid by you in respect of yourself, your spouse and any dependants as described, to a medical scheme registered in terms of section 24(1) of the MS Act, may be taken into account when the medical allowance is determined.

Contributions paid by you to any other funds which are registered under similar provisions contained in the laws of any other country, may also be taken into account.

Example 1 – Contributions to a unregistered medical scheme

Facts:

AA paid monthly contributions of R2 000 to XYZ Health SA, which is not a registered medical scheme. The contributions are in respect of himself, his mother, his spouse and their two children. They are all considered to be dependants in terms of the rules of the medical scheme.

Result:

The monthly contributions for the tax year amounted to R24 000 are not qualifying contributions, as they were not made to a registered medical scheme.

Example 2 – Contributions to a registered medical scheme

Facts:

AB paid monthly contributions of R2 000 to ABC Health SA, which is a registered medical scheme. The contributions are in respect of himself, his mother, his spouse and their two children. They are all considered to be dependants in terms of the rules of the medical scheme.

Result:

The monthly contributions for the tax year amounted to R24 000 are the qualifying contributions.

Example 3 – Contributions to a foreign medical scheme

Facts:

AC lives in South Africa where he is liable to tax. He paid monthly contributions of R2 000 to British Health in respect of himself, his spouse and their children. They are all considered to be dependants in terms of the rules of the medical scheme. British Health is not registered as a medical scheme under section 24(1) of the MS Act, but is registered under the laws of the United Kingdom.

Result:

The monthly contributions for the tax year amounted to R24 000 are the qualifying contributions.

Example 4 – Contributions paid on behalf of a member of a medical scheme

Facts:

AD paid monthly contributions of R1 000 to Excellent Health SA, which is a registered medical scheme. The amounts were paid on behalf of AE and AE's spouse and children, who are all considered to be dependants of AE in terms of the rules of the medical scheme.

Result:

The monthly contributions are not qualifying contributions, as they were not paid by AE.

b) “Deemed contributions”

Contributions paid by a person other than yourself will **not** be taken into account when your medical allowance is determined, except for –

- contributions paid by the estate of a deceased taxpayer, which are deemed to have been paid by the taxpayer on the day before his or her date of death; and
- contributions paid by an employer of a taxpayer, which are deemed to have been paid by the taxpayer to the extent that the amount has already been included in the income of the taxpayer as a taxable benefit.

Example 5 – Determination of admissible contributions

Facts:

AF, age 45, paid contributions of R500 per month to ABC Health SA, a registered medical scheme, in respect of himself, his spouse and their child. They are all considered to be dependants in terms of the rules of the medical scheme. Over and above AF's contribution, his employer paid a contribution of R2 000 per month to this scheme. Determine the total contributions to be taken into account by AF for purposes of determining the medical allowance.

Result:

AF's contributions for the tax year (R500 x 12)	R <u>6 000</u>
Deemed contributions (amount of contributions made by his employer that is in excess of the capped amount is regarded as a taxable benefit) R 24 000 - R16 560 = R7 440	<u>7 440</u>
__The capping of contributions is discussed in 3.1.2	
Capped amount: (R1 060 + R320) x 12 = R16 560	
Total contributions for purposes of the medical allowance [R6 000 + R7 440]	<u>13 440</u>

3.1.2 Capping of contributions

The medical allowance in respect of qualifying contributions is subject to a capping amount as from 1 March 2006. Capping will not apply if –

- you are 65 years of age or older as at the end of a year of assessment; or
- you, your spouse or one of your or your spouse's children is a "handicapped person" as defined.

In these circumstances the total contributions may be claimed as a medical allowance.

If you are not yet 65 years old, the portion of your contributions that do not exceed the capped amount will be allowed as a medical allowance. The contributions that exceed the capped amount plus other qualifying medical and disability expenses are subject to the 7.5% limitation (see **3.2.4**).

a) Capped amount when all contributions are paid by you

The capped amount of contributions paid by you is –

- R530 per month in respect of yourself;
- R1 060 per month in respect of yourself and one dependant; or
- R1 060 per month in respect of yourself and one dependant, plus R320 per month for every additional dependant.

Example 6 – Determination of allowable contributions

Facts:

AG, age 45, paid contributions of R2 000 per month to ABC Health SA (which is a registered medical scheme) in respect of himself, his spouse and their two children. They are all considered to be dependants in terms of the rules of the medical scheme. AG's employer does not pay any contributions on his behalf.

Determine the guaranteed amount that AG will be able to claim as a medical allowance in respect of his contributions, and the excess contributions that must be taken into account in applying the "7.5% of taxable income" threshold.

Result:

AG's contributions for the tax year (R2 000 x 12)	R <u>24 000</u>
Allowance i.r.o. contributions limited to capped amount for the tax year is [(R1060 + R320) x 12]	<u>20 400</u>
Contributions in excess of capped amount (R24 000 – R20 400)	<u>3 600</u>

AG may claim a medical allowance of R20 400 in respect of his contributions. Whether he will be entitled to a further deduction in respect of his excess contributions of R3 600 plus any other medical and physical disability expenses will depend on whether the total of those expenses exceeds the "7.5% of taxable income" threshold, which is discussed in **3.2.4**.

b) Capped amount when contributions paid by you and your employer

When contributions are paid by you and your employer, the capping amount in the preceding **3.1.2(a)** must be reduced by any amounts pertaining to contributions paid by your employer which have, by virtue of paragraph 12A(1) of the Seventh Schedule, not been regarded as a taxable benefit granted to you by your employer.

Paragraph 12A(1) provides that you will be deemed to have derived a taxable benefit should your employer contribute, directly or indirectly, to a medical scheme registered under the MS Act for the benefit of you and your dependants in excess of the capped amount.

The value that is to be placed on the taxable benefit derived by you is the amount by which the employer's contributions exceed the following prescribed capped amount –

- R530 per month in respect of yourself;
- R1 060 per month in respect of yourself and one dependant; or
- R1 060 per month in respect of yourself and one dependant, plus R320 per month for every additional dependant.

No value will be placed on the taxable benefit described above when the benefit is derived by –

- a person who by reason of superannuation, ill-health or other infirmity retired from the employ of his or her employer;
- the dependants of a deceased employee after that employee's death, if that deceased employee was in the employ of the employer on the date of death;
- the dependants of a person after the death of that person if that person retired from the employ of such employer by reason of superannuation, ill-health or other infirmity; or
- an employee who is 65 years of age or older.

Example 7 – Determination of allowable contributions when employer and employee contribute and no taxable benefit arises

Facts:

AH, age 45, paid contributions of R1 500 per month to ABC Health SA, a registered medical scheme, in respect of himself, his spouse and their two children. They are all dependants under the rules of the medical scheme. In addition to the amount contributed by AH, his employer contributed R500 per month to his medical scheme. These contributions were not included in his income as a taxable benefit as they do not exceed the capped amount of R20 400 [(R1 060 + (R320 x 2)) x 12] for purposes of determining a taxable benefit.

Determine the guaranteed amount that AH will be able to claim as a medical allowance in respect of his contributions, and the excess contributions that must be taken into account in applying the “7.5% of taxable income” threshold.

Result:

AH's contributions for the tax year (R1 500 x 12)	R 18 000
<i>Add:</i> Deemed contributions (portion of contributions made by employer comprising a taxable benefit)	<u>Nil</u>
Total contributions for purposes of the medical allowance	<u>18 000</u>

Guaranteed deduction:

Capped amount for the tax year is [(R1 060 + (R320 x 2)) x 12]	20 400	
<i>Less:</i> Contributions paid by employer not comprising a taxable benefit (contributions < R20 400)	<u>(6 000)</u>	
Guaranteed deduction for contributions	<u>14 400</u>	14 400

Excess contributions for the tax year 3 600

AH may claim a medical allowance of R14 400 in respect of his contributions. The deductibility of the excess contributions of R3 600 will be determined by adding them to any other allowable medical expenses and applying the “7.5% of taxable income” limitation (the limitation principle is discussed in 3.2.4).

Example 8 - Determination of allowable contributions when employer and employee contribute and a taxable benefit arises

Facts:

AI, age 45, paid contributions of R500 per month to ABC Health SA, a registered medical scheme, in respect of himself, his spouse and their two children. They are all dependants under the rules of the medical scheme. In addition to the amount contributed by AI, his employer contributed R1 500 per month to his medical scheme. These contributions were not included in his income as a taxable benefit as they do not exceed the capped amount of R20 400 [(R1 060 + (R320 x 2)) x 12] for the tax year for purposes of the determination of the taxable benefit.

Determine the guaranteed amount that AH will able to claim as a medical allowance in respect of his contributions, and the excess contributions that must be taken into account in applying the “7.5% of taxable income” threshold.

Result:

AI's contributions for the tax year (R500 x 12)	R 6 000
<i>Add:</i> Deemed contributions (portion of contributions made by employer comprising a taxable benefit)	<u>Nil</u>
Total contributions for purposes of the medical allowance	<u>6 000</u>

Guarantee deduction:

Capped contributions for the tax year is [(R1 060 + (R320 x 2)) x 12]	20 400	
<i>Less:</i> Contributions paid by employer not comprising a taxable benefit (contributions < R20 400)	<u>(18 000)</u>	
Guaranteed deduction for contributions	<u>2 400</u>	(2 400)

Excess medical aid contributions for the tax year 3 600

AI may claim a medical allowance of R2 400 in respect of his medical contributions. The deductibility of the excess contributions of R3 600 will be determined by adding them to any other allowable medical expenses and applying the “7.5% of taxable income” limitation (the limitation principle is discussed in 3.2.4).

3.2 Contributions and expenses that are subject to the 7.5% limitation

The following contributions and expenses must be taken into account in the determination of the medical allowance, but will be subject to the 7.5% limitation (see 3.2.4) –

- contributions that exceed the capped amount;
- medical expenses relating to services and prescribed supplies; and
- expenses relating to a physical disability (if applicable).

Qualifying medical expenses incurred during a tax year which have not been paid during that tax year must be claimed in the tax year in which they are actually paid. This will, for example, be the case when expenses have been incurred towards the end of a tax year, but have only been paid in the next tax year. An individual's tax year commences on 1 March of the one year and ends on 28/29 February of the following year.

Example 9 – Physical disability expenditure paid during a tax year

Facts:

BA suffers from paralysis of both legs and requested Vehicle Conversions to convert the foot controls of his motor vehicle to hand controls. The quote was R30 000. BA accepted the quote and signed a formal contract on 1 July 2007. Work commenced on his vehicle on 2 July 2007. The conversion job took two months to finalise and BA took delivery of his motor vehicle on 1 September 2007. According to the contract, the amount of R30 000 had to be paid within 15 days after delivery of the vehicle. BA paid the R30 000 on 10 September 2007.

Result:

As BA incurred and paid this expense during the same tax year (2008), the expense will be taken into account in the determination of the medical allowance for the 2008 tax year.

Example 10 – Physical disability expenditure incurred in one tax year and paid in the next tax year

Facts:

BB suffers from paralysis of both legs and requested Vehicle Conversions to convert the foot controls of his motor vehicle to hand controls. The quote is R30 000. BB accepted the quote and signed a formal contract on 1 November 2007. Work commenced on his vehicle on 1 December 2007. The conversion job took two months to finalise and BB took delivery of his motor vehicle on 1 February 2008. According to the contract, the amount of R30 000 had to be paid within 30 days after delivery of the vehicle. BB paid the R30 000 on 2 March 2008.

Result:

As BB incurred this expense during the 2008 tax year but only paid this expense during the 2009 tax year, the expense will only be taken into account in the determination of BB's medical allowance for the 2009 tax year.

Example 11 – Physical disability expenditure incurred but never paid

Facts:

BC suffers from paralysis of both legs and requested Vehicle Conversions to convert the foot controls of his motor vehicle to hand controls. The quote was R30 000. BC accepted the quote and signed a formal contract on 1 November 2007. Work commenced on his vehicle on 1 December 2007. The conversion job took two months to finalise and BC took delivery of his motor vehicle on 31 January 2008. According to the contract, the amount of R30 000 had to be paid within 15 days after delivery of the vehicle. BC defaulted on payment and this expense was eventually written off by Vehicle Conversions.

Result:

Even though BC incurred this expense during the 2008 tax year, it has never been paid by him and will, therefore, not be taken into account in the determination of the medical allowance in respect of any tax year.

3.2.1 Contributions that exceed the capped amount

Contributions that exceed the capped amount, will together with qualifying medical and disability expenses, be taken into account in the determination of the medical allowance, but will be subject to the 7.5% limitation.

3.2.2 Medical expenses relating to services and prescribed supplies

a) Qualifying medical expenses

Expenses that have been paid by you during the tax year to any duly registered –

- medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopaedist for professional services rendered and medicines supplied; or
- nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such nurse, midwife or nursing assistant), in respect of illness or confinement); or
- pharmacist for medicines as prescribed by a person mentioned in the first bullet point above,

will be taken into account when the medical allowance is determined, as long as such expenses have been incurred in respect of yourself, your spouse, one of your or your spouse's children or any of your dependants as described. In the case of a "dependant" the expenses will only be admissible if you are a member of a registered medical scheme and the dependant was, at the time that the expenses were paid, admitted as a dependant of yours in terms of the scheme.

The above-mentioned expenses must not be recoverable from your medical scheme.

Expenses paid by your employer on your behalf may be taken into account, if they resulted in a taxable benefit deemed to have been received by you.

Example 12 – Expenditure not recoverable from medical scheme

Facts:

BD paid R1 000 to Dr. Feelgood in respect of consultation fees. Dr. Feelgood is a registered medical practitioner. BD belongs to a registered medical scheme. BD submitted a claim of R1 000 to his medical scheme. The medical scheme reimbursed BD with R600. Determine BD's qualifying expenditure.

Result:

The difference of R400 that was not reimbursed by the medical scheme constitutes a qualifying expense and will be taken into account when the medical allowance is determined.

Example 13 – Payment to a unregistered medical practitioner

Facts:

BE paid R1 000 to Mr. Student for a medical consultation. Mr. Student is a second-year medical student. Determine whether the amount of R1 000 qualifies as a medical expense.

Result:

The payment of R1 000 does not constitute a qualifying expense and will not be taken into account when the medical allowance is determined, as Mr. Student is not a duly registered medical practitioner.

Example 14 – Non-prescription medicine

Facts:

BF purchased headache powder off the shelf at the local pharmacy at a cost of R50. Determine whether the amount of R50 qualifies as a medical expense.

Result:

As the headache powder was not prescribed by a registered medical practitioner, the expenditure does not constitute qualifying expenses and will not be taken into account when the medical allowance is determined.

b) Expenditure incurred outside the Republic

Expenses in respect of medical services and supplies as reflected above that have been incurred outside South Africa may be taken into account in the determination of the medical allowance during a year of assessment if they –

- have been paid during that tax year; and
- those medical services and medicines are substantially similar to medical services rendered and medicines supplied in South Africa.

3.2.3 Expenses relating to a physical disability

You are also allowed to take into account qualifying physical disability expenditure in computing your medical allowance. This is over and above any qualifying contributions made to medical schemes and qualifying medical expenses incurred and paid.

The qualifying expenditure is described in section 18(1)(d) as follows:

“any expenditure (other than expenditure recoverable by the taxpayer or his or her spouse) necessarily incurred and paid by the taxpayer in consequence of any physical disability suffered by the taxpayer, his or her spouse or any child, and any dependant of the taxpayer contemplated in paragraph (b)(i)”.

The expenses in question must have been **necessarily incurred and paid** during the tax year. In other words, expenditure incurred during tax year 1 but only paid in tax year 2 will only qualify in tax year 2.

The expense must be in consequence of a physical disability suffered by you, your spouse, your or your spouse’s children or any of your dependants. Expenditure incurred in respect of a dependant will only qualify if –

- you were a member of a registered medical scheme; and
- at the time the expense was paid, the person was admitted as a dependant of yours in terms of the rules of the medical scheme.

The terms “necessarily incurred”, “physical disability” and “in consequence of” are not defined in the Act and consequently they must be interpreted according to their ordinary dictionary meaning.

Taxpayers must ensure that the following information is available:

- Full details of the nature of the physical disability.

- Evidence that the expense was incurred “in consequence of” the physical disability, that is, directly connected with the physical disability and/or incurred as a necessary result of it.
- Why was it necessary to incur the expense? Was the expense inevitable, or unavoidable, in such a way that it cannot be otherwise, of necessity?

When a claim for an allowance under section 18(1)(d) is made, each case will be considered having regard to the nature of the disability, together with the facts and circumstances of the case and whether the expense claimed was necessarily incurred.

a) Physical disability

A physical disability can be described as a condition or dysfunction, of a permanent nature, which requires the person who has such a condition or dysfunction to use special equipment or receive medical treatment in order to perform general life functions. A temporary condition or illness that can be treated with, for example, medication or exercise is not regarded as a physical disability. It is not a requirement that the condition result from physical injury. Medical conditions such as diabetes can also result in a physical disability.

Physical disabilities include —

- bad eyesight;
- hearing problems;
- diabetes;
- paralysis of a portion of the body;
- multiple sclerosis;
- asthma; and
- brain dysfunctions such as dyslexia, hyperactivity or lack of concentration.

b) Qualifying physical disability expenses

The following are examples of expenses incurred in consequence of physical disabilities that can be taken into account in determining the medical allowance:

- Costs relating to the purchase of aids such as spectacles, hearing aids, orthopaedic or surgical equipment or appliances, wheelchairs, crutches, leg or arm braces.
- Remedial teaching fees paid in respect of a child suffering from a brain dysfunction such as dyslexia or lack of concentration. This includes school fees of a child sent to a special school (for example, a school for the visually impaired). Travel expenses incurred in transporting a child to and from a boarding school which is a special school also qualify as a deduction. However, travel expenses purely for visitation purposes do not qualify. The cost of school uniforms does also not qualify as a deduction.
- A person suffering from diabetes may claim the cost of insulin tablets or injections. The disablement here is the permanent inability of cells of the pancreas to generate insulin which would deprive the person of the ability to function. The cost of a special diet cannot be claimed as it is not necessarily incurred in respect of the disablement.
- The costs incurred in attending a parent training clinic by parents of a child who has a speech or hearing impediment.
- The cost of modifying a home to accommodate the special needs of a person suffering from a physical disability such as multiple sclerosis. These may include —
 - support railings; and

- adapted toilets, sunken baths or a shower seat.
- The cost of adapting a motor vehicle to meet the special needs of a person suffering from a physical disability.
- The cost of adult-size nappies required by a person suffering from incontinence.
- The salary or wages of an attendant required by a person whose bodily functions have so deteriorated that he or she can no longer walk, eat meals or put on clothes without assistance.
- The fees paid to an institution to permanently care for a person described above or a chronically sick person, despite a portion being for board and lodging.

In the last-mentioned example the expenditure is regarded as having been incurred mainly because of the physical disability, with the board and lodging being merely incidental. Old age in itself is not a physical disability. The cost incurred by an elderly person of living in an old-age home for the sake of convenience will not qualify. A case of this nature must be distinguished from one in which the person lives in the home for the purpose of receiving treatment and care as in the case of a chronically ill person.

Example 15 – Claim for physical disability expenditure limited to “7.5% of taxable income”

Facts:

BG, age 45, is married with two children age 10 and 12. His taxable income is R220 000 before taking into account any qualifying medical and physical disability expenditure. BG incurred the following expenditure:

	R
Contributions to a registered medical scheme	19 000
Medical expenses (non-recoverable from a medical scheme)	6 000
Remedial teaching fees	<u>25 000</u>
Total qualifying medical expenses	<u>50 000</u>

The remedial teaching fees were in respect of BG’s 10-year old child who suffers from hyper activity.

Determine BG’s taxable income after deducting allowable medical allowance.

Result:

BG is entitled to a guaranteed deduction in respect of his medical scheme contributions not exceeding R20 400 [(R1 060 + (R320 x 2)) x 12]. Since he only spent R19 000, his guaranteed claim for medical contributions is limited to R19 000 and there is no excess to carry over to the “7.5% of taxable income” calculation.

	R
Taxable income before the deduction of medical expenses:	220 000
Less: Contributions (allowed in full, see above)	(19 000)
Less: Portion of medical expenditure that exceeds 7.5% limitation:	
Qualifying expenses (R6 000 + R25 000)	31 000
Less: 7.5% of taxable income before medical expenditure but after capped contributions (R201 000 x 7.5%)	(15 075) (15 925)
Taxable income after allowable medical allowance	<u>185 075</u>

3.2.4 Calculation of the 7.5% limitation of the allowable contributions and medical expenses

An allowance in respect of the contributions and expenses discussed in 3.2.1, 3.2.2 and 3.2.3 will only be allowed to the extent that the aggregate amount thereof exceeds 7.5% of your taxable income after deducting retirement fund contributions, donations to approved bodies, capped medical scheme contributions and any other allowable deductions. The amount of any retirement fund lump sum

benefit (as defined in section 1) you have received must also be excluded from your taxable income for purposes of the 7.5% calculation.

A medical deduction may create an assessed loss for the current tax year or increase an assessed loss brought forward from a previous tax year.

An assessed loss brought forward from a previous tax year must first be set off against the taxable income of the current tax year before calculating the 7.5% limitation.

Example 16 – Application of the 7.5% limitation

Facts:

BI, age 45, is married with two children age 5 and 7. His taxable income is R220 000 before taking into account any qualifying medical and physical disability expenditure. BI claims medical expenditure as follows:

	R
Medical aid contributions for the tax year (R2 000 x 12)	24 000
Other qualifying medical expenditure including physical disability expenses	<u>16 000</u>
Total medical expenses	<u>40 000</u>

Determine BI's taxable income after deducting allowable medical allowance.

Result:

		R
Total contributions for the tax year	24 000	
Capped amount for the tax year (R1 700 x 12)	<u>(20 400)</u>	(20 400)
Excess medical aid contributions for the tax year	<u>3 600</u>	
Taxable income before allowing the capped amount	220 000	
Less: Capped amount allowed above	<u>(20 400)</u>	
Taxable income for purposes of 7.5% limitation	<u>199 400</u>	
Excess contributions	3 600	
Qualifying medical and physical disability expenses	<u>16 000</u>	
Amount subject to the 7.5% limitation	19 600	
Limitation: R199 600 x 7.5%	<u>(14 970)</u>	
Allowable expenditure in excess of 7.5% threshold	<u>4 630</u>	(4 630)
Medical allowance		<u>(25 030)</u>
Taxable income before the deduction of the medical allowance		220 000
Less: Medical allowance		<u>(25 030)</u>
Taxable income after taking into account medical allowance		<u>194 970</u>

As can be seen, for purposes of calculating the 7.5% limitation, the capped medical aid contributions of R20 400 must first be deducted from taxable income.

Example 17 – Determination of medical allowance when assessed loss brought forward from previous tax year

Facts:

	R
Assessed loss brought forward from a previous tax year	(40 000)
Taxable income before the deduction of medical expenses	50 000
Qualifying medical expenses:	30 000

Result:

Taxable income before the deduction of medical expenses	50 000
Assessed loss brought forward from previous tax year	<u>(40 000)</u>
Taxable income for current tax year before medical expenses	10 000
Qualifying medical expenses	30 000

Less: 7.5% of taxable income before medical allowance [(R50 000 – R40 000) x 7.5%]	(750)	
Medical allowance	<u>29 250</u>	<u>(29 250)</u>
Assessed loss after medical allowance		<u>(19 250)</u>

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4. Circumstances in which the medical allowance will not be limited

4.1 Persons who are 65 years or older

A person who is 65 years of age or older on the last day of the tax year is granted a medical allowance in respect of all qualifying contributions and qualifying medical and physical disability expenses for that tax year. The limitation of 7.5% is, therefore, not applicable.

4.2 Handicapped persons

A person will be entitled to a medical allowance in respect of all qualifying contributions, medical and physical disability expenses if that person, the person's spouse or that person's or that person's spouse's child is a "handicapped person". A person other than you, your spouse or your or your spouse's child who is enrolled on your medical scheme cannot qualify as a "handicapped person".

The limitation of 7.5% is, therefore, also not applicable.

Note that all qualifying medical expenditure can be claimed even if no physical disability expenditure was necessarily incurred and paid as a result of being a handicapped person. The only requirement is that you, your spouse or one of your or your spouse's children must qualify as a "handicapped person".

If you, your spouse or one of your or your spouse's children is a "handicapped person" as defined, the medical allowance will be equal to the aggregate of –

- contributions to a registered medical scheme;
- qualifying medical expenses; and
- qualifying disability expenses.

Example 18 – Handicapped person not subject to 7.5% limitation in respect of medical expenses

Facts:

CA, age 45, has a taxable income of R220 000 before taking into account qualifying medical and physical disability expenditure. CA claims qualifying medical expenditure of R30 000, which includes expenses of R10 000 necessarily incurred and paid as a consequence of being a blind person.

Determine CA's medical allowance.

Result:

As the 7.5% limitation is not applicable, CA is entitled to a medical allowance of R30 000. CA's taxable income after the medical allowance is R190 000 (R220 000 - R30 000)

Example 19 – Physical disability expenditure need not be incurred by a "handicapped person" to qualify for an unlimited medical allowance

Facts:

CB, age 45, has taxable income of R220 000 before taking into account qualifying medical and physical disability expenditure. He has a blind 9 year old child. CB claims qualifying medical expenditure of R30 000. CB incurred no physical disability expenditure in respect of his child's blindness.

Determine CB's medical allowance.

Result:

Since CB's child is a "handicapped person", the 7.5% limitation does not apply. The unrestricted medical allowance conferred when a taxpayer, his spouse or his or his spouse's child is a "handicapped person" applies regardless of whether any physical disability expenditure has been paid.

CB is, therefore, entitled to a medical allowance of R30 000. CB's taxable income after the medical allowance is R190 000 (R220 000 - R30 000)

4.2.1 The meaning of "handicapped person"

The term "handicapped person", defined in section 18(3) means —

- a blind person;
- a deaf person;
- a person who as a result of a permanent disability requires a wheelchair, calliper or crutch to assist him to move from one place to another;
- a person who requires an artificial limb; or
- a person who suffers from a mental illness.

a) Blind person

It is SARS's policy, in determining whether a person is a blind person for the purposes of section 18(3)(a), to follow the guidelines specified by the World Health Organisation.

These criteria are either based on a person's —

- visual acuity (clarity or sharpness of vision measured by means of an eye chart known as a "Snellen chart"); or
- visual field (how wide you can see).

The minimum requirements are set out in the table below.

Table 1 – Alternative minimum requirements for a person to be classified as a blind person

Criteria	Minimum requirement
Visual acuity	In the better eye with best possible correction, less than 6/18 (0,3).
Visual field	10 degrees or less around central fixation.

"6/18" means that what a person with normal vision can read at 18 metres, the person being tested can only read at 6 metres.

"Best possible correction" refers to the position after a person's vision has been corrected by means of spectacles, contact lenses or intra-ocular (implanted) lenses.

A letter confirming the diagnosis and classification of the individual's eyesight, based on the above criteria, from a registered health or rehabilitation practitioner who is trained to use the Snellen chart (for example, an optometrist or ophthalmologist), will be acceptable to SARS and must be retained in case your tax affairs are audited by SARS.

b) Deaf person

In terms of section 18(3)(b) a deaf person is one whose hearing is impaired to such an extent that he or she cannot use it as a primary means of communication. It follows that a person does not have to be completely deaf to qualify as a handicapped person.

The Deaf Federation of South Africa (DEAFSA) statistically makes a distinction between the following four categories:

- Persons who have a mild hearing loss.
- Persons who are moderately hard of hearing.
- Persons who are severely hard of hearing.
- Persons who are profoundly deaf.

In terms of these criteria, SARS will accept that a person is a deaf person if he or she is

- severely hard of hearing, or
- profoundly deaf,

as tested without any hearing aids. Alternatively, a person who is impaired by 65% or more in either one or both ears will also be regarded as a deaf person.

Written confirmation of the category or percentage of impairment must be obtained from an appropriately qualified medical practitioner (for example, an ear, nose and throat specialist). This must be retained in case your tax affairs are audited by SARS.

c) Person who as a result of a permanent disability requires a wheelchair, calliper or crutch to assist him or her to move from one place to another

The disability must be of a permanent nature. For example, a person who has to use a crutch for a few months as a result of a broken leg would not qualify. A medical certificate confirming the permanent nature of the disability must be retained in case your tax affairs are audited by SARS.

d) Person who requires an artificial limb

A medical certificate confirming the need for an artificial limb must be retained in case your tax affairs are audited by SARS. An arm or leg is a limb, but a finger, thumb or toe is a digit. A person with a missing limb will still be regarded as person suffering from a handicap even if he or she chooses not to have an artificial limb fitted.

e) Person suffering from a mental illness

The Medical Health Care Act, No. 17 of 2002 (MHC Act) defines "mental illness" as a positive diagnosis of a mental health related illness in terms of accepted diagnostic criteria made by a mental health care practitioner authorised to make that diagnosis.

A person will be regarded as a "handicapped person" if a psychiatrist or a registered psychologist confirms, by way of a medical report, that a person is mentally ill as defined by the MHC Act. This confirmation must be done on an annual basis and retained in case your tax affairs are audited by SARS. In the case of a permanent mental illness, an original report by a psychiatrist or psychologist specifically indicating that the condition is irreversible must be retained.

4.2.2 Qualifying expenses relating to a handicapped person

Examples of expenses necessarily incurred in consequence of a physical disability suffered by a “handicapped person” include —

- the purchase of reading aids such as CCTV readers, video magnifiers and machines that convert printed material into Braille;
- the purchase of white canes;
- the purchase of talking watches, alarm clocks, cell phones and scales;
- costs of keeping a guide dog;
- purchase of software that converts speech to text and vice versa;
- purchase of electronic or other devices used by deaf persons (for example, a flashing light indicating that a door bell is ringing);
- purchase of hearing aids;
- purchase of wheelchairs, callipers, crutches;
- ramps for wheelchairs;
- enlargements of doorways to accommodate wheelchairs;
- installation of support railings;
- purchase of adapted toilets, sunken baths or a shower seat;
- purchase of artificial limb(s); and
- the adaptation of a vehicle to a person’s special needs made essential as a result of the handicap

5. How to claim the medical allowance

5.1 Persons registered for income tax

The following documentation must be retained for audit purposes when a medical allowance is claimed in respect of a tax year:

- Proof of contributions paid to a registered medical scheme or to any other funds which are registered under similar provisions contained in the laws of any other country. In the case of salary earners, contributions paid to a registered medical scheme will normally be reflected on the employees’ tax certificate (IRP 5).
- A statement from the medical scheme indicating the total amount of claims submitted to the fund that were not refunded to you or paid by the scheme to the service provider. The February statements usually reflect the total amount for the tax year.
- A completed prescribed list in respect of amounts not submitted to/recoverable from your medical scheme.
- When applicable, a letter from your medical scheme, stating that the benefits allocated in respect of certain medical procedures are exhausted.
- Documentary proof of handicap (see 4.2.1 for requirements).

The aforementioned documentation, as well as receipts must not be submitted with your annual return of income, but must be kept available on request in order to substantiate your medical claims. You are required to keep records such as receipts, paid cheques, bank statements, deposit slips and invoices for a period of five years from the date on which the return for the relevant tax year was received by SARS. However, in cases in which objections and appeals have been lodged against assessments, you must keep all records and data relating to the assessments under objection/appeal until such time that the objection/appeal has been finalised, even if the timeframe for finalisation exceeds five years.

5.2 Persons not registered for income tax

If you are a SITE taxpayer and are not required to submit an income tax return but have qualifying medical expenses that could reduce the amount in respect of which you are liable for the payment of normal tax, you may apply for a refund. An IT 12SE form must be requested from your local SARS branch office, be completed and handed in at that office. Should the deduction result in a reduction of the SITE paid, you will be refunded accordingly.

You may only apply for a refund of an amount if –

- the application is made within a period of three years from the end of the tax year during which the amount was deducted;
- the amount deducted constituted an amount of employees' tax deducted from remuneration paid to you;
- your income for that tax year only consisted of remuneration; and
- you were not required to submit a return of income for that tax year and did not render a return for that tax year during the period of three tax years since the end of that tax year.

6. How to object to the disallowance of a medical allowance

A person who claimed a deduction in respect of a medical allowance who is not satisfied with the assessment issued may object to it.

The objection must be in the prescribed form (ADR 1), state the grounds on which the objection is lodged and reach the relevant SARS branch office where he or she is on register for income tax within a period of 30 business days after the date of the assessment.

The relevant documentation, as discussed in 4.2.1 must be submitted together with the objection.

Further information regarding the objection and appeal procedure is available on the SARS website and is set out in the *Guide on Tax Dispute Resolution*.

7. Other information

7.1 Relief of customs and excise duty on a motor vehicle adapted for a physically disabled/handicapped person

When motor vehicles which are principally designed for the transport of persons, including station wagons (excluding racing cars), are adapted or are to be adapted to be solely driven by a physically disabled person, the full customs or excise duty may by specific permit be claimed as a rebate under certain conditions as prescribed by the International Trade Administration Commission (ITAC) or SARS, after consultation with the National Council for Persons with Physical Disabilities in South Africa. The following provisions apply:

- The adaptation of the motor vehicle must be of such a nature that the physically disabled driver of the motor vehicle has easy access to all controls necessary to drive such a vehicle.

- The permit may not be issued within a period of five years of the issue of a previous permit to such disabled person.
- Permits may, however, be issued within a shorter period provided that proof is submitted that the motor vehicle previously entered under rebate of duty was stolen or written off by the licensing authorities.
- If the vehicle is offered, advertised, lent hired, leased, pledged, given away, exchanged, sold or otherwise disposed of within a period of five years from the date of entry under rebate items 460.17 or 630.16, such foregoing acts shall render such vehicle liable to the payment of duty on a pro rata basis.

The full rebate of either customs or excise duty of such vehicles is regulated as follows:

- Imported vehicles: Part 2, Schedule 4 to the Customs and Excise Act, rebate item 460.17, rebate code 02.04.
- Locally manufactured vehicles: Part 2, Schedule 6 to the Customs and Excise Act, rebate item 630.16, rebate code 01.00.

7.2 Useful links

Below are examples of useful links to websites relating to medical or health issues in one form or another:

- Blind SA: www.blindsa.org.za
- South African National Council for the Blind: www.sanacb.org.za
- Retina South Africa: www.rpsa.org.za
- Deaf Federation of South Africa: www.deafsa.co.za
- South African Association of Audiologists: www.audiologysa.co.za
- The QuadPara Association of South Africa: www.qasa.co.za
- South African Orthotic and Prosthetic Association: www.saopa.co.za
- SA Federation for Mental Health: www.safmh.org.za
- Parkinson Association South Africa: www.parkinsons.co.za
- The Southern African Association for Learning and Educational Difficulties: www.saaled.org.za
- Association for the Physically Disabled: www.apd.org.za
- Dystonia Association SA: www.dystonia.org.za
- Leprosy Mission: www.leprosymission.co.za
- Council for Medical Schemes: www.medicalschemes.com

Annexure 1

Section 18 of the Income Tax Act 58 of 1962

18. Deduction in respect of medical and dental expenses.—(1) Notwithstanding the provisions of section 23, there must be allowed to be deducted from the income of any taxpayer who is a natural person an allowance in respect of—

- (a) any contributions made by that taxpayer in respect of the year of assessment in respect of that taxpayer, his or her spouse and any dependant, as defined in section 1 of the Medical Schemes Act, 1998 (Act No. 131 of 1998), of that taxpayer to—
 - (i) any medical scheme registered under the provisions of that Act; or
 - (ii) any fund which is registered under any similar provision contained in the laws of any other country where the medical scheme is registered;
 - (b) any amounts (other than amounts recoverable by the taxpayer or his or her spouse) which were paid by the taxpayer during the year of assessment to any duly registered—
 - (i) medical practitioner, dentist, optometrist, homeopath, naturopath, osteopath, herbalist, physiotherapist, chiropractor or orthopedist for professional services rendered or medicines supplied to the taxpayer, his or her spouse or his or her children, or any dependant of the taxpayer if the taxpayer was a member of a scheme or fund contemplated in paragraph (a) and that dependant was, at the time such amounts were paid, admitted as a dependant of the taxpayer in terms of that scheme or fund; or
 - (ii) nursing home or hospital or any duly registered or enrolled nurse, midwife or nursing assistant (or to any nursing agency in respect of the services of such a nurse, midwife or nursing assistant) in respect of the illness or confinement of the taxpayer, his or her spouse or his or her children, or any dependant of the taxpayer contemplated in subparagraph (i); or
 - (iii) pharmacist for medicines supplied on the prescription of any person mentioned in subparagraph (i) for the taxpayer, his or her spouse or his or her children, or any dependant of the taxpayer contemplated in subparagraph (i); and
 - (c) any amounts (other than amounts recoverable by the taxpayer or his or her spouse) which were paid by the taxpayer during the year of assessment in respect of expenditure incurred outside the Republic on services rendered or medicines supplied to the taxpayer or his or her spouse or children, or any dependant of the taxpayer contemplated in paragraph (b)(i), and which are substantially similar to the services and medicines in respect of which a deduction may be made under paragraph (b) of this subsection; and
 - (d) any expenditure (other than expenditure recoverable by the taxpayer or his or her spouse) necessarily incurred and paid by the taxpayer in consequence of any physical disability suffered by the taxpayer, his or her spouse or any child, and any dependant of the taxpayer contemplated in paragraph (b)(i).
- (2) The allowance under subsection (1) is equal to—
- (a) where the taxpayer is entitled to a rebate under section 6(2)(b), the sum of the amounts referred to in subsection (1);
 - (b) where the taxpayer, his or her spouse or child is a handicapped person, the sum of the amounts referred to in subsection (1); or
 - (c) in any other case—
 - (i) so much of the contributions made by the taxpayer during the relevant year of assessment as contemplated in subsection (1)(a), as does not exceed—
 - (aa) R530 for each month in that year in respect of which those contributions were made solely with respect to the benefits of that taxpayer;

(bb) R1 060 for each month in that year in respect of which those contributions were made with respect to the benefits of that taxpayer and one dependant; or

(cc) where those contributions are made with respect to the taxpayer and more than one dependant, the amount referred to in item (bb) in respect of the taxpayer and one dependant plus R320 for every additional dependant for each month in that year in respect of which those contributions were made:

Provided that the amounts in items (aa) to (cc) must be reduced by any amount contributed by the employer of the taxpayer to any such fund which has by virtue of paragraph 12A of the Seventh Schedule not been included in his or her gross income; and

(ii) so much of—

(aa) any contributions contemplated in subsection (1)(a) as have not been allowed as a deduction under subparagraph (i); and

(bb) the sum of all amounts contemplated in subsection (1)(b), (c) and (d),

as in the aggregate exceeds 7,5 per cent of the taxpayer's taxable income (excluding any retirement fund lump sum benefit) as determined before allowing any deduction under this subparagraph.

(3) For the purposes of this section “**handicapped person**” means—

(a) a blind person as contemplated in the Blind Persons Act, 1968 (Act No. 26 of 1968);

(b) a deaf person, being a person whose hearing is impaired to such an extent that he cannot use it as a primary means of communication;

(c) a person who as a result of a permanent disability requires a wheelchair, calliper or crutch to assist him to move from one place to another;

(d) a person who requires an artificial limb; or

(e) a person who suffers from a mental illness as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002).

(4) For the purposes of this section the expression “**child in relation to the taxpayer**” means the taxpayer's child or child of his or her spouse who was alive during any portion of the year of assessment, and who on the last day of the year of assessment—

(a) was unmarried and was not or would not, had he lived, have been—

(i) over the age of 18 years;

(ii) over the age of 21 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year; or

(iii) over the age of 26 years and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of such year and was a full-time student at an educational institution of a public character; or

(b) in the case of any other child, was incapacitated by physical or mental infirmity from maintaining himself or herself and was wholly or partially dependent for his maintenance upon the taxpayer and has not become liable for the payment of normal tax in respect of the year of assessment:

Provided that any child of the taxpayer who has become liable for the payment of normal tax in respect of any year of assessment solely by reason of the provisions of section 5(1A) shall be deemed for the purposes of this section not to have become liable for the payment of normal tax in respect of such year.

(5) For purposes of this section, any amount contemplated in subsection (1), which has been paid by—

- (a) the estate of a deceased taxpayer is deemed to have been paid by the taxpayer on the day before his or her death; or
- (b) an employer of the taxpayer must, to the extent that the amount has been included in the income of that taxpayer as a taxable benefit in terms of the Seventh Schedule, be deemed to have been paid by that taxpayer.

Section 1 of the Medical Schemes Act 131 of 1998

“**dependant**’ means—

- (a) the spouse or partner, dependant children or other members of the member’s immediate family in respect of whom the member is liable for family care and support; or
- (b) any other person who, under the rules of a medical scheme, is recognised as a dependant of a member;”

Section 24 of the Medical Schemes Act 131 of 1998

“**24. Registration as medical scheme.**-(1) The Registrar shall, if he or she is satisfied that a person who carries on the business of a medical scheme which has lodged an application in terms of section 22, complies or will be able to comply with the provisions of this Act, register the medical scheme, with the concurrence of the Council, and impose such terms and conditions as he or she deems necessary.”

Section 1 of the Mental Health Care Act 17 of 2002

“**mental illness**” means a positive diagnosis of a mental health related illness in terms of accepted diagnostic criteria made by a mental health care practitioner authorized to make such diagnosis;’