# NATIONAL ASSEMBLY

**FOR WRITTEN REPLY**

**QUESTION NO. 21**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 10 FEBRUARY 2022**

**(INTERNAL QUESTION PAPER NO. 01)**

**Ms M D Hlengwa (IFP) to ask the Minister of Health:**

In terms of a media statement issued by his department on 4 February 2022, that he has appointed an Appeal Committee to adjudicate on the matter between the SA Health Products Regulatory Authority and an organisation called Free the Children - Save the Nation, over the vaccination of children between the age of 12 and 17 years old in terms of the Medicines and Related Substances Act, Act 101 of 1965, (a) what factors did he consider to convene the Appeal Committee and (b)(i) what is the process for hearing of evidence by the Appeal Committee and (ii) will such expert testimonies be publicly available?

###### NW25E

**REPLY:**

1. The following factors were considered to convene the Appeal Committee

Section 24A (1) of the Medicines and Related Substances Act, 1965 (Act 101 of 965) as amended ("the Act") provides that any person aggrieved by decision of the SAHPRA may appeal against such decision by notifying the Chief Executive Officer (CEO) within 30 days of becoming aware of such decision of his or her intention to appeal and setting out the full grounds of appeal. The Act also provide for a mechanism where CEO must meet with the Appellant to try to resolve the matter, especially if the appeal involves administrative matters (Section 24A (2). This process is done without the presence of the legal representative.

Section 24A (3) and (4) of the Act provides as follows:

‘‘24A. (3) Should the Chief Executive Officer and the appellant fail to resolve the matter as contemplated in subsection (2), the appellant shall within 30 days of being notified by the Chief Executive Officer of the failure to resolve the matter and upon payment of a prescribed fee, request the Minister in writing to convene an appeal committee.

(4) The appeal committee contemplated in subsection (3) shall -

(a) comprise the chairperson who shall have knowledge of the law and four other persons who shall have knowledge of the subject matter of appeal but with no financial or business interests in the affairs of the parties to the appeal, two of them nominated by the appellant and the other two by the Chief Executive Officer; and

(b) conduct the appeal hearing and make a decision within 30 days from the day when it first meets to hear the appeal.’’

Free the Children Save the Nation NPC represented by Mr John Taylor launched an appeal in terms of Section 24A (4) of the Act. The Appellant and the CEO of SAHPRA met to try and resolve the issues raised by the Appellant as provided for in the Act. However, the matter could not be resolved.

If the issues raised by the Appellant had not been resolved through the mechanism of a meeting between the CEO of SAHPRA and the Appellant, the Act compels the Minister to convene an Appeal Committee. Therefore, the Appeal Committee was convened after the processes envisaged in section 24A (1) to (3) were done but the matter remained unresolved.

1. (i) The process for hearing of evidence by the Appeal Committee

In terms of Regulation 48 (2) (a) and (b) of the General Regulations made in terms of the Act, the Appeal Committee has to determine the procedure for its hearings and may in this regard, if it deems necessary, call for oral evidence or argument.

The Appeal Committee in its meeting of 21st January 2022 agreed that it will conduct the hearings through oral submissions together with both medical and legal representation. The Parties may call their experts to lead evidence in support of their case.

(ii) The Appeal Committee in its meeting with the Parties held on 08 February 2022 had agreed that both the media and the broader public be invited and have access to the link of the hearings. Therefore, the expert testimonies will be open to the public as the hearing will be open to the general public.

END