# NATIONAL ASSEMBLY

**FOR WRITTEN REPLY**

**QUESTION NO. 3381**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 21 AUGUST 2015**

**(INTERNAL QUESTION PAPER NO. 30)**

**Dr W G James (DA) to ask the Minister of Health:**

(1) With reference to his reply to question 443 on 26 May 2015, what amount was (a) claimed for medical negligence from and (b) eventually paid out by (i) his department and (ii) each provincial department of health (aa) in the (aaa) 2011-12, (bbb) 2012-13, (ccc) 2013-14 and (ddd) 2014-15 financial years and (bb) since 1 April 2015;

(2) what amount was budgeted for litigation by (a) his department and (b) each provincial department of health for the 2015-16 financial year;

(3) in respect of each province, what are the five most common complaints for which compensation was claimed in the (a) 2013-14 and (b) 2014-15 financial years;

(4) (a) which 10 hospitals had the highest number of claims against them and (b) for each hospital (i) how many claims were made against each one and (ii) what total amount was paid out for each specified claim in the 2014-15 financial year;

(5) whether he has a plan to address the high number of medical negligence claims in the country; if not, why not; if so, what are the relevant details?

###### NW4040E

**REPLY:**

**National Department of Health**

1. (a) and (b) (i) - Nil

(2) R7 299 000.00

**Western Cape Department of Health**

1. (a) and (b) (ii)

|  |  |  |
| --- | --- | --- |
|  | **CLAIMED** | **PAID OUT** |
| 2011-12 | R38 065 710.00 | R15 900 800.00 |
| 2012-13 | R16 577 812.00 | R6 197 147.05 |
| 2013-14 | R156 742 059.90 | R22 587 000.00 |
| 2014-15 | R66 537 807.64 | R17 311 080.30 |

(2) R71 401 million

(3)

|  |  |
| --- | --- |
| **Year** | **Top 5 most common** |
| 1. 2013-14 | Neonatal encephalopathy  Delayed diagnosis of illnesses  Maternal / labour complications  Failure to diagnose and treat |
| 1. 2014-15 | Neonatal encephalopathy  Maternal /labour complications  Failure to diagnose and treat |

(4)

|  |  |  |
| --- | --- | --- |
| **Hospital** | **Number of claims** | **How much paid in 2014-15** |
| Groote Schuur | 3 | R775 000.00 |
| Tygerberg | 3 | R790 000.00 |
| Mowbray Maternity | 2 | R836 600.00 |
| Worcester | 2 | R4 867 615.00 |
| Karl Bremer | 1 | R200 000.00 |
| Hanna Coetzee clinic | 1 | R1 227 660.00 |
| Retreat MOU | 1 | R220 000.00 |
| Clanwilliam | 1 | R100 000.00 |
| Delft CHC/Tygerberg | 1 | R7 829 205.30 |
| IdasValley clinic | 1 | R45 000.00 |
| False Bay | 1 | R200 000.00 |
| Paarl | 1 | R220 000.00 |

**Eastern Cape Department of Health**

1. (a) and (b) (ii)

|  |  |  |
| --- | --- | --- |
| **Financial Year** | **Amount Claimed** | **Amount paid** |
| 2011/2012 | R331 728 678.64 | R25 336 038.35 |
| 2012/2013 | R393 108 094.28 | R44 743 495.84 |
| 2013/2014 | R198 207 500.00 | R49 513 I08.93 |
| 2014/2015 | Information not furnished | Information not furnished |
| Since 1 April 2015 | R2 304 490 306.10 | R147 861 438.84 |

(2) The Eastern Cape Department of Health does not allocate a budget for legal claims settlements, however when a settlement obligation arises from a medico legal claim, funds are reprioritized from within the departmental allocation to pay for such obligation.

(3) In the Eastern Cape, for both years, the 5 most common complaints for which compensation was claimed were:

• Obstetrics and gynaecology;

• Paediatrics;

• Orthopaedics;

• Trauma; and

• Family medicine.

(4) The top 10 litigated hospitals in the Eastern Cape and corresponding claims paid in 20 14/ 15 is presented in the table below as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **NO** | **NAME OF INSTITUTION** | **NUMBER**  **OF CLAIMS**  **2014/15** | **AMOUNTS**  **CLAIMED**  **(not finalised) these matters are still active and pending, as they are not settled)** | **AMOUNTS PAID** |
| 1 | Butterworth Hospital | 86 | R278 042 265.00 | RO.OO |
| 2 | Frere Hospital | 56 | Rl87 245 594.10 | RO.OO |
| 3 | Cecilia Makiwane Hospital | 41 | R88 572 625.00 | RO.OO |
| 4 | Dora Nginza Hospital | 39 | R193 951 117.00 | RO.OO |
| 5 | Mthatha General Hospital | 48 | R217 625 555.44 | RO.OO |
| 6 | All Saints Hospital | 19 | R171 363 625.00 | RO.OO |
| 7 | Nelson Mandela Academic  Hospital | 32 | R123 279 284.00 | R8 000 000.00 |
| 8 | Bedford Orthopaedic  Hospital | 14 | R5 425 000.00 | RO.OO |
| 9 | St Barnabas Hospital | 13 | R45 050 000.00 | RO.OO |
| 10 | Livingstone Hospital | 12 | R20 30I 325.52 | RO.OO |

1. The following interventions are being implemented in the Eastern Cape to address the high number of medico legal claims in the province:

• The department held a medico legal summit and invited all affected role players to look at ways of managing medical litigations in the province;

• The department is finalizing the appointment of the Medical Ombudsman for the Province;

• The department is also appointing a panel of medical legal experts to assist with preparation for the cases before they appear in court, and in same terms strengthening its legal representation; and

• The department is continuously strengthening the quality of health care services and ensuring adequate retention of patient records; including direct interventions focused specifically in management of medico legal trends.

**KwaZulu-Natal Department of Health**

1. (a) and (b) (ii)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Financial Year** | **No of new matters received** | **Amount Claimed** | **No of matters settled** | **Amount paid** |
| 2011/2012 | 81 | R326 342 322.68 | 30 | R41 357 533.80 |
| 2012/2013 | 165 | R992 272 280.20 | 28 | R49 400 941.94 |
| 2013/2014 | 309 | R1 596 517 823.74 | 49 | R123 885 303.21 |
| 2014/2015 | 404 | R3 046 136 920.80 | 61 | R212 851 030.87 |
| 2015/2016 (as at 11  September 2015) | 194 | R1 456 528 457.00 | 17 | R68 852 267.54 |

(2) The Department has not budgeted for litigation matters, as it is difficult to predict possible liabilities.

(3)

|  |  |
| --- | --- |
| **Year** | Top 5 most common |
| 1. 2013-14 | Obstetrics and gynaecology  Paediatrics  Surgery  Orthopaedics  Misdiagnosis |
| 1. 2014-15 | Obstetrics and gynaecology  Paediatrics  Surgery  Orthopaedics  General (refers to claims to cover non medical errors resulting in litigation against the Department ranging from maintenance, security & operational issues) |

(4)

|  |  |  |  |
| --- | --- | --- | --- |
| District | Hospital | No.  of claims  2014/15 | Amounts paid |
| eThekwini District | Prince Mshiyeni Memorial Hospital | 121 |  |
|  | Addington Hospital | 77 |  |
|  | King Edward VIII Hospital | 69 |  |
| Amajuba District | Mahatma Ghandi Memorial Hospital | 69 |  |
|  | Charles Johnson Memorial Hospital | 68 |  |
|  | Inkosi Luthuli Central Hospital | 34 |  |
|  | Total amount paid for eThekwini District |  | R85 704 607.21 |
| uMgungundlovu District | Edendale Hospital | 44 |  |
|  | Northdale Hospital | 44 |  |
|  | Total amount paid for uMgungundlovu District |  | R10 796 165.80 |
| Ugu District | Port Shepstone Hospital | 34 |  |
|  | Total amount paid for Ugu District |  | R1 375 000.00 |
| Amajuba District | Madadeni Hospital | 34 | RO.OO |
|  | Total amount paid for Amajuba District |  | R67 714.83 |

The Department is planning a Medico-Legal Summit to discuss and address the Medical negligence claims in the Province.

**Mpumalanga Department of Health**

(1) (a) and (b) (ii)

The following table represents the amounts claimed for medical negligence:

|  |  |
| --- | --- |
| **Financial Year** | **Amount Claimed for medical negligence** |
| 2011/2012 | R131 538 785.00 |
| 2012/2013 | R93 194 265.00 |
| 2013/2014 | R95 375 306.00 |
| 2014/2015 | R 562 210 541.00 |
| April 2015 to June 2015 | R130 536 500 |
| **TOTAL** | R1 012 855 397.00 |

(b) The amounts paid out for claimed medical negligence, in Mpumalanga is listed as follows:

(aaa) During the 2011/12 financial year, a total number of eight (8) medical negligence claims were paid at a cost of R5 056 370.00.

(bbb) During the 2012/13 financial year, a total number of three (3) medical negligence claims were paid at a cost of R220 000.00.

(ccc) During the 2013/14 financial year, a total number of nine (9) medical negligence claims were paid at a cost of R44 193 741.66.

(ddd) During the 2014/15 financial year, a total number of five (5) medical negligence claims were paid at a cost of R2 773 768.00

(bb) For the period April 2015 to August 2015, the department has paid three (3) medical negligence claims at a cost of R10 099 248.63.

(2) The Mpumalanga Department of Health has been allocated with a budget of R22 212 000.00 for claims against the state and R34 737 000 for legal fees, that are paid to state attorneys and private attorneys.

(3) The most common complaints in Mpumalanga for which compensation was claimed in 2013/14 and 2014/15 financial years, were obstetric cases due to birth injuries where period of labour has been prolonged and resulted in the child suffering from cerebral palsy and orthopaedic cases as a result of motor vehicle accidents.

(4) (a) The Top Ten hospitals in Mpumalanga with highest claims in 2014/15, are:

• Tinswalo Hospital

• Matikwana Hospi

• Themba Hospital

• Mapulaneng

• KwaMhlanga Hospital

• Witbank Hospital

• Rob Ferreira Hospital

• Shongwe Hospital

• Sabie Hospital

• Evander Hospital

(i) Number of claims made against them

|  |  |
| --- | --- |
| • Tinswalo Hospital | 13 |
| • Matikwane Hospital | 13 |
| • Themba Hospital | 12 |
| • Mapulaneng Hospital | 07 |
| • KwaMhlanga Hospital | 04 |
| • Witbank Hospital | 04 |
| • Rob Ferreira Hospital | 04 |
| • Shongwe Hospitals | 03 |
| •-- Sabie Hospital -­ | 03 |
| • Evander Hospital | 02 |

(ii) Total amount paid out of each specified claim in 2014/15

• Tinswalo Hospital None

• Matikwane Hospital None

• Themba Hospital None

• Mapulaneng Hospital None

• Kwa Mhlanga Hospital R430 000.00

• Witbank Hospital R2 411 432.00

• Rob Ferreira Hospital None

• Shongwe Hospitals None

• Sabie Hospital None

• Evander Hospital None

**Free State Department of Health**

1. (a) and (b) (ii)

|  |  |  |
| --- | --- | --- |
|  | **CLAIMED** | **PAID OUT** |
| 2011-12 | R39 201 030.30 | R5 473 097.00 |
| 2012-13 | R145 406 892.00 | R2 935 534.00 |
| 2013-14 | R177 408 892.65 | R673 373.00 |
| 2014-15 | R322 449 863.07 | R15 090 000.00 |
| 2015- | R259 771 498.92 | R12 725 427.59 |

(2) R10 000 000.00 was budgeted for the 2015/2016 financial year.

(3)

|  |  |
| --- | --- |
| **Year** | **Top 5 most common** |
| 1. 2013-14 | Cerebral Palsy  Botched Operations  Misdiagnosis leading to complications  Perforation of uterus during delivery |
| 1. 2014-15 | Cerebral Palsy  Botched Operations  Misdiagnosis leading to complications  Perforation of uterus during delivery |

(4)

|  |  |
| --- | --- |
| **Hospital** | **Number of claims** |
| Pelonomi Hospital | 9 |
| Bongani Hospital | 8 |
| Thebe | 5 |
| Universitas | 4 |
| Fezi Ngubentombi | 3 |
| Boitumelo | 3 |
| Manapo | 2 |
| Elizabeth Ross | 2 |
| Botshabelo | 1 |

No payments have been made yet, all matters still pending.

(5) A medico legal expert panel, consisting of medical doctors from various medical disciplines has been appointed. One of their responsibilities is to draft a Litigation Prevention Strategy, the strategy is still a in a draft format.

**Limpopo Department of Health**

1. (a) and (b) (ii)

|  |  |  |
| --- | --- | --- |
|  | **CLAIMED** | **PAID OUT** |
| 2011-12 | R161 228 792.79 | R11 394 831.08 |
| 2012-13 | R130 155 032.44 | R4 114 165.00 |
| 2013-14 | R299 181 456.14 | R22 033 040.50 |
| 2014-15 | R656 940 666.77 | R31 364 817.07 |

1. The budget and revenue unit make availability of the funds for payments on claims against the State and litigation matters.
2. The most common complaints that the department receives:

* Loss of a child during labour/delivery
* Foreign objects left inside the patients after the operation
* Cerebral palsy
* Maternal death
* Amputations

1. (a) The Limpopo province is divided is divide into 5(five) districts namely; Mopani, Capricorn, Waterberg, Sekhukhune & Vhembe District. The hospitals that have a large number of cases are as follows:

* Philadelphia
* Polokwane
* Maphutha Malatji
* Mankweng
* Nkhensani
* Sekororo
* Seshego
* Malamulele
* Tshilidzini
* Letaba

(b) (i) This are the claims that have been made against each hospital for the financial year 2014/15 are:

* Philadelphia = 12
* Polokwane = 12
* Mapjutha Malatji= 09
* Mankweng = 08
* Nkhensani = 07
* Sekororo = 06
* Seshego = 04
* Malamulele = 04
* Tshilidzini = 03
* Letaba = 03

(ii) For the financial year 2014/2015 the Department has paid R23 805 262.72

1. In respect of Limpopo Province the Department of Health has established a specialized unit which is the Medico Legal unit separate from the Legal Services unit which functions includes:

* Identification of overt claims, potential claims and monitoring of medical negligence cases,
* Consultation with state attorney,
* Rebuttal of claims,
* Settlement of claims and
* Closure of cases.

**North West Department of Health**

1. (a) and (b) (ii)

|  |  |  |
| --- | --- | --- |
|  | **CLAIMED** | **PAID OUT** |
| 2011-12 | R733 602.57 | R753 602.57 |
| 2012-13 | R144 470 255.72 | R7 899 232.50 |
| 2013-14 | R207 601 325.00 | R12 959 528.18 |
| 2014-15 | R499 577 250.00 | R19 978 582.00 |
| **Since April 2015** | R142 886 250.00 | Nil |

(2) R5 409 525.00

(3) Most common complaint that the Department receives:

Obstetric complications

END.