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HEADLINE: How government plans to make medical negligence cheaper

Blurb: The rise in medical negligence claims has left the health department with a R120-billion bill. Government now plans on introducing the State Liability Amendment Act to make medical negligence cheaper.

- **Medical negligence claims have skyrocketed, making the health department responsible for R120-billion in payouts.**
- **Government is trying to reduce its liability by introducing the structured settlements through the State Liability Amendment Bill.**
- **For compensation exceeding R1-million, payments will be split in three: a large sum paid immediately, smaller periodic payments and instead of cash for medical treatment, free treatment at a public health facility.**

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R120-billion.

That's how much provincial health departments will owe victims of medical negligence across the country for the 2020/2021 financial year if the government pays out all successful claims.

Each claim is worth about R5.5-million. At the moment they're paid in one go, or a "lump sum".

This puts pressure on SA's already wobbly public health services as bigger chunks of health budgets disappear into these bills.

As a result, the government is pushing to make medical negligence cheaper.

One way the state is doing this is through the State Liability Amendment Bill of 2018.

The Bill was rejected by Parliament in 2021. It must now be reintroduced as a white paper.

If it's signed into law, it will make "structured payments" compulsory for claims over R1-million.

How do structured payments work?

The South African Law Reform Commission (SALRC) recommends that this should be split into three parts.

1. One part will be paid immediately.
2. A portion will be paid in smaller payments over a period of time.
3. The last chunk will be paid in the form of free treatments at public health facilities.

There are pros and cons to this payment method.

Pros:

1. Smaller, more frequent payments will stop victims from running out of money too quickly.
2. Periodic payments would protect patients from the pitfalls of calculating medical negligence claims — more than 50% of the money paid out in a lump sum is swallowed by legal fees.
3. Smaller payments may stop dodgy lawyers from filing fraudulent claims because their cut of the payout will be smaller.

Cons:

1. Smaller payments will make people reliant on the government to pay on time — and when that doesn't happen, victims will be stuck without funds to pay for their needs.
2. Unlike lump sum payouts, periodic payments won't take into account expensive emergency treatments that may come up and for which a lot of money is needed at once.

It is unclear when the white paper will be published.

This story was produced by the [Bhekisisa Centre for Health Journalism](#). Sign up for the [newsletter](#).