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Your Reference:

Our Reference: L DE SOUZA-SPAGNOLETTI/hm/

31 May 2019

Dear Sir/Madam

ADDRESS TO HONORABLE PRESIDENT CYRIL RAMAPHOSA

Herewith find presentation summaries of our Mrs L de Souza-Spagnoletti & Mr T Van Niekerk.

We are pleased to have been involved in this important initiative and look forward to being of assistance going forward.

We are most certainly eager to remain involved and have a particular interest in rehabilitation and centres to be established.

Yours faithfully

Sgd: L De Souza-Spagnoletti

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31 May 2019

Dear Mr President,

REHABILITATION OF CHILDREN DIAGNOSED WITH CEREBRAL PALSY THROUGH A STATE FUNDED MEDICAL AID

1. A previous census conducted in 2011 apparently revealed that 200 babies a day were being born in South Africa who were later diagnosed with cerebral palsy. This figure excluded rural areas which could not be reached to participate in compiling accurate statistics.
2. Many of these complications were caused by genetic abnormalities while others were caused by a sentinel event and therefore unpreventable. The remaining cases form the basis of litigation instituted against the various Provincial MEC's (i.e. the State) based on medical malpractice.
3. The awards made in the successful prosecution of a claim amount to millions of rands per matter. Added to the capital value of each claim, is the additional obligation by the State to pay legal costs and disbursements which costs easily exceed a further one million rands per case.
4. The Constitution safeguards the rights of children and even more so of disabled children. The Constitution also guarantees access to medical care to all sectors of society. Making payments of astronomical awards in respect of disabled children shall significantly compromise the availability of decent health care to the general public at large. This system is unsustainable and will collapse if the aforementioned rights are not carefully balanced.

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5. A further compounding problem to the current situation arises when a child passes away. The remaining funds which were awarded in respect of rehabilitation and future medical expenses are lost to the State due to the law of intestate succession. Similarly, specialized equipment and adaptive devices are also not made available for re-use purposes.
6. The solution to this problem is multi-faceted with various aspects in need of address. Such aspects include prevention by means of appropriate and ongoing training, speedy access to specialized courts, the establishment of centres of excellence focusing on rehabilitation and lastly a means of curbing the drain on State coffers.
7. My proposition provides for a mechanism aimed at preventing the current drain on the National Health Care Budget and ensuring that funds awarded are channeled appropriately for rehabilitation as and where they are needed. The proposition provides for the establishment of a State Funded Medical Aid and membership of all children with cerebral palsy, the negligent cause of which has been proven to be the State. The medical aid shall then be made available to address all aspects of rehabilitation as and when they arise. Such a proposal shall circumvent the payment of a large, once off award made in respect of rehabilitation as well as the costs incurred in proving such award, thereby drastically reducing the financial drain on the National Health Care Budget. Further, it shall significantly expedite finalization of these claims so that constructive and timeous rehabilitation can commence.
8. I intend elaborating on the aforementioned concept at the upcoming presentation to the Honourable President and his delegates.

Tobie Van Niekerk (DIRECTOR)

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