



## OSD DEAL – A FLICKER OF HOPE FOR MID-LEVEL DOCTORS



Raining on their parade – Cape Town doctors march on parliament in June to protest against 'insulting' pay offers.

Picture: Chris Bateman

Mid-level category public sector doctors, least rewarded in the occupation specific dispensation (OSD) settlement (of 7 August), will have to wait another 8 months to see whether negotiations to be re-opened for them will sweeten their packages.

This is the outcome of the South African Medical Association (SAMA) and its five partner unions, conditionally agreeing to sign the employer's 30 June OSD offer.

The offer benefits juniors and top seniors most, leaving slimmer pickings for mid-level doctors.

Juniors (mostly) took to the streets in unprecedented numbers as doctor-state relations reached an all-time low, with on-off punitive state measures and Health Professions Council censure. Controversy over patient care and the government refusing to sign a minimum service level with emergency services raged back and forth. In terms of the agreement,

SAMA accepted what was tabled, on condition that once non-OSD public sector wage negotiations (to follow) are concluded, the employer re-opens unique, category-specific talks on mid-level OSD packages.

The Health Department gave a signed undertaking that any further increases agreed to for the mid-level doctors (junior and senior specialists, chief medical officers and clinical managers), will be implemented from 1 April 2010. In the meantime the mid-level doctors, jokingly referred to by weary union negotiators as 'the meat in the sandwich', have to live with the (on average) below-inflation hikes secured in the current settlement.

Thembi Gumbi, SAMA's labour relations chief, characterised the outcome thus: 'We made the best of a bad situation'. She said one consequence of rejecting the employer's OSD counter-proposal would have been to leave the baseline for the upcoming annual public sector salary adjustments (backdated to July this year) far lower costing doctors dearly.

Government negotiators, emboldened by legislation weighted in their favour, relied upon this and SAMA not taking the risk-laden, time-consuming route of arbitration or an urgent application to the Labour court, to secure the settlement.

### Final package details

Interns get a 42% salary hike. Community service officers get 8% from 1 July 2009, with another 6.1% in April 2010. Senior medical officers (a category now embracing first-year medical officers), get 3.4% from 1 July 2009, with another 7.7% due in April next year.

These 'juniors' now form the bulk of public sector doctors due to historical attrition of seniors via cynicism and burn-out caused by the lack of pay progression and debilitating working conditions. In spite of this, principal medical officers (level 11) and chief medical officers (level 12) and their specialist



equivalents, got below-inflation increases from 1 July this year (3.7% and 1.5% respectively), improving via a 7.7% and 9.3% 'top-up' respectively in April next year (to which any negotiated gains will be added).

The OSD hikes are also experience-related for each level, with additional percentage increases for 5 years but less than 10, and 10 years and above, enabling certain older hands who were 'stuck' in a level to benefit beyond the average top offer. The notoriously numerous 'notches' in each level were also shrunk with annual performance assessments agreed upon as mandatory in future. Added to this is 5% in lieu of the back-pay to July 2008 that doctors were demanding – the originally agreed upon date for OSD implementation.

The five partner unions initially rejected the employer's OSD 30 June package outright – 30 June this year was the agreed-upon date for official negotiations to end.

The unions had until 21 July to either accept or declare a dispute – or come up with an alternative strategy – which as it turned out was SAMA's proposal to re-open negotiations on the mid-level doctor categories.

The door for this was held open by Richard Baloyi, the Minister of Public Service Administration, who agreed 'in principle' to the SAMA initiative.

## **Employer's response surprises observers**

Ms Jennifer Chetty, manager of the collective bargaining section of the Public Health and Social Development Sectoral Bargaining Council (PHSDSBC), told *Izindaba* that the employer had taken the proposal on the re-opening of negotiations to its (political) principals. She said the employer would not commit to a (return) date.

When the health department suddenly on 7 August tabled its counter-proposal to defer mid-level doctor salary talks until after the general public sector wage negotiations, most journalists were caught napping. *Izindaba's* wake-up call came via a casual OSD check with a public sector specialist while seeking the phone number of a colleague.

'What, don't you know? They pulled the carpet from under us on Friday,' was his cynical response bemoaning an apparent lack of consultation.

The debate on how much autonomy union negotiators should exercise before seeking mandates and just when to do so began long before the OSD was conceived and will rage on for as long as collective bargaining exists. The OSD settlement puts to rest fears by many doctors that government would 'rob Peter to pay Paul' by reducing the hefty intern hikes to bump up the mid-levels.

Health Minister, Dr Aaron Motsoaledi, had earlier candidly singled out relatively junior doctors, registrars, plus teachers at the top end of the profession as the chief targets of the government offer.

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## **Will government actually cough up for mid-levels?**

Strategically placed government sources said that because of intense health budget pressures in the context of an overall economic crisis, voluntary additional money for the OSD was 'fairly unlikely'.

They cited overall HIV/AIDS/TB costs (e.g. antiretroviral therapy, CD 4 cell count protocol possibly increasing from 200 to 350, funding better ARV supply lines), two dysfunctional and effectively bankrupt provincial health departments and ongoing infant feeding schemes, as examples.

The staggered OSD doctor offer totals just over R2 billion over two years.

Charles Nupen, Chief Technical Advisor to the International Labour Organisation (ILO) and a former Director of the Council for Conciliation, Mediation and Arbitration (CCMA), was retained by SAMA to advise on strategy during the talks.

He said there was little SAMA could do in the short term to challenge the considerable limitations imposed on it by the current bargaining structures.

SAMA, with some 6 000 public sector doctor members, was only on the PHSDSBC courtesy of the Democratic Union of Nurses of South Africa (DENOSA), which secured its OSD settlement followed by chaotic implementation much earlier.

Nupen suggested SAMA try and persuade the PHSDSBC to amend its constitution to allow a lower membership threshold (currently 10 000 full-time members) or, failing that, to challenge its emasculated collective bargaining power using the Bill of Rights.

## **Chronology of a strike**

The nearly 5-month bargaining marathon was marked by two rounds of controversial doctor strikes, first mainly by members of the breakaway United Doctors Front, and the second including significant numbers of SAMA doctors.

Provincial health departments, their national counterpart and the Health Professions Council of South Africa (HPCSA) used the full extent of the law to try to quell the rebellion. However, thousands of doctors country-wide, fed up with their working conditions, inept management, woeful salaries and inability to provide decent, sometimes even minimal care for their patients, put their jobs on the line to protest.



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At the time of writing HPCSA probes involving 16 striking doctors from Addington Hospital's paediatrics department who allegedly 'refused to attend to life-threatening emergencies', and 60 doctors across six hospitals in the Greater Durban area suspected of 'dereliction of duty', were ongoing.

Two pregnant mothers and one of their infants died when doctor protest actions at northern public hospitals first began in mid-April. All three deaths, a mother and one of her twins at the Odi Primary health care centre near Pretoria and a woman whose uterus ruptured at the Mafikeng Hospital, happened during a 'go slow' and a strike by doctors at these respective institutions. However, the HPCSA was unable to establish any definitive link between the deaths and the strike action.

Should the HPCSA manage to establish the full circumstances of the ensuing Durban-based complaints, the

names of patients, and how they were affected (to establish negligence or detriment), the 'accused' doctors have 40 working days to provide an explanation before a preliminary enquiry decides whether grounds exist for a formal professional conduct enquiry.

Most striking doctors accused the supposedly independent HPCSA of acting as a 'government lackey' in its 'biased' handling of the controversy. They cited its failure to call the health department to account for its dismal management, staffing and provisioning of public hospitals, which they say lead directly to patient lives being threatened or lost. They argued that this flew in the face of the HPCSA's stated 'mission' of protecting the public and guiding the professions.

Only time will tell whether any lessons from this unhappy episode will contribute to fundamental, effective reform in the historically neglected public health care sector.

**Chris Bateman**