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The True Cost to the State of Maternity Services in Ireland

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Abstract

Accounting for the cost of delivery of maternity services in Ireland ignores the cost of claims settlements caused by negligence in delivery. We show that the true cost of maternity services is more than double the generally reported cost when proper account is taken of the associated cost of maternity claims. There must come a tipping point, if it is not already exceeded, when the sums paid out by way of settlements for mismanagement of maternity services become larger than the additional costs of operating a sound service.

Introduction

Maternity services in Ireland support approximately 60,000 deliveries each year through 19 dedicated public maternity units.[1] Some 15% of the total availing of these services pay for private maternity care but this care is delivered within these public units. The Clinical Indemnity Scheme operated by the State Claims Agency covers all clinical claims made against maternity services in Ireland for both public and private pathways.

The Rising Cost of Clinical Claims

The State Claims Agency (SCA) operates two insurance schemes for the State, the Clinical Indemnity Scheme (CIS) and the General Indemnity Scheme (GIS). The CIS covers all clinical claims against hospitals (including maternity services), the HSE, and some other parties while the GIS covers all non-clinical claims. Of the total €1.9 billion claims settled by the State Claims Agency over the last decade, €1.7 billion (or 89%) was in respect of the Clinical Indemnity Scheme.[2]

The number of new claims is increasing at a faster rate than the number being resolved in recent years. The rate of growth of both claim settlements and the rise in outstanding liabilities has averaged more than 15% per annum since 2010. At the end of 2019, the estimated outstanding liabilities amounted to €3.63 billion, up from €783 million in June 2010.[3]

Outstanding clinical claims comprise three-quarters of this figure "primarily due to the high estimated liability associated with maternity services claims, particularly those arising from the high cost of settling catastrophic brain-injury infant cases".[3] In 2011, the Director of the SCA estimated that such cases of cerebral palsy at birth, while only 3% of the claims by number, accounted for two-thirds of the CIS liability.[4] Accordingly, we can estimate that the liability to cerebral palsy cases represent about half of the total outstanding liability (that is two-thirds of the CIS which is three-quarters of the total outstanding liability). This is consistent with the NTMA Report and Annual 2017 which reported that estimated liability in respect of maternity services claims was €1.38bn compared to total estimated outstanding claims of €2.66 billion (that is 53%). Already, individual settlements for cerebral palsy and associated birth injuries have exceeded €20 million before legal and other costs.[5]

Cost of Maternity Services and Cost of Claims on Maternity Services

Since 2015 the HSE implemented "Activity Based Funding", which requires estimates of the cost for each procedure (ignoring capital costs), and annually publish such cost estimates. The most recent figures show that the price range for deliveries varies from €2,418 for a Vaginal Delivery with Minor Complications to €10,313 for a Caesarean Delivery with Major Complications.[6] Based on the number of type of each delivery and the estimated price per procedure in each year, we estimate that the average cost to the State per delivery was €3,324 between 2015 and 2020 (see Table 1). An earlier study put the average cost in 2009 at €2,780 including €1,200 attributable to postnatal bed care costs.[8]

Table 1: Number of Deliveries each calendar year in Ireland and Estimated Price per Delivery.

Year	No. Deliveries[7]	Estimated Price Per Delivery[6]
2020	58,718 (estimate based on ABF)	€3,670.43
2019	58,006	€3,348.25
2018	59,608	€3,409.94
2017	60,496	€3,218.75
2016	62,442	€3,169.49
2015	64,115	€3,128.50
2014	65,608	n/a
2013	65,115	n/a
2012	66,098	n/a
2011	71,231	n/a
2010	72,657	n/a
2009	72,864	€2,780[8]

Sources: Number of deliveries as reported each year in Healthcare Pricing Office, Activity in Acute Public Hospitals in Ireland Annual Reports, 2009-2019. Deliveries include live single, multiple and stillbirths. Estimated Price Per Delivery in 2020 calculated from figures published in Healthcare Pricing Office, ABF 2020 Admitted Patient Price List. Figures for earlier years were calculated from figures kindly provided to the authors by the Healthcare Pricing Office for those years and, for 2009, by the referenced source.

Discharges from maternity units in Ireland after delivery accounted for about 3% of all acute hospital discharges[7] but, as noted earlier, gave rise to about half of the overall liability to the State in negligence claims. The NTMA accounts at year end 2016 and 2017 show that the outstanding liability for maternity claims increased from €1.09 billion to €1.38 billion, that is an increase of €290 million. In addition, a total of €282 million was paid out in 2017, roughly half or €141 million could be for maternity claims giving a total estimate of €431 million. There were 60,496 deliveries in 2017. This gives an average estimated claims cost of €7,124 per delivery in 2017. The estimated claims cost per delivery in 2017 was more than twice the cost per delivery in 2017.

Due to long delays between incident and claim, it is necessary to average over a longer period than one year to see if the pattern is stable. A total of €1.9 billion was paid in claims over the last decade and claims outstanding at the end of decade increased by about €2.85 billion (that is €3.63 billion as the most recent available figure at end 2019 less €0.78 billion in June 2010). Hence the estimated liabilities over the last decade is €4.75 billion, about half of which is in respect of maternity services or €2.375 billion. The number of deliveries in Ireland was 645,376 over the decade from the start of 2010 to the end of 2019 (see Table 1) This gives an estimated claims cost of €3,680 on average per delivery over the last decade. This is higher than the cost to the State of providing the maternity service ignoring capital costs.

In short, the figures show that liabilities arising from negligent birth injuries each year are now greater than the amount actually spent by the State in the day-to-day running of maternity services.

Quality of Maternity Services

There have been several reports published over the last decade investigating the functioning of Irish maternity services and the scope for improvement.[9] A recent study overviewed the finding of ten of these national inquiries published between 2005 and 2018 and draws attention to the consistent recommendation that staffing levels and staff training be increased (recommended in all reports) and the need for better risk management practices (recommended in 9 out of the 10 reports).[10] Indeed, the Health Information and Quality Authority's more recent overview of maternity services reiterated these recommendations, alongside its recommendation that "The HSE must immediately develop a comprehensive, time-bound and fully costed National Maternity Strategy implementation plan…".[11]

The independent investigations also give an assessment of how maternity services have been delivered over the last decade across many of the 19 maternity units in Ireland. For example, the 2014 report on Portlaoise Hospital Maternity Services concludes "poor outcomes that could likely have been prevented were identified and known by the hospital but not adequately and satisfactorily acted upon" and, even at the time of review, "PHMS [Portlaoise Hospital Maternity Services] service cannot be regarded as safe".[12] These findings follow the warning by the Health Information and Quality Authority the previous year that due to poor records "…it is impossible to assess the performance and quality of the maternity service nationally".[13]

Improvements in the provision of maternity services over the last decade have been too slow to stop the rise in the number and size of claims. It is clear that institutional learning from these investigations has been limited.

To the national inquiries, we must add the scores of other cases where the Irish courts have been satisfied that the standard of care was unacceptably deficient in a manner that led to injury where compensation is due.

Improving Maternity Services

It is known what must be done to improve the service, the problem is one of implementation. Perhaps the insurer - the SCA since 2002 - should be given a greater role. A case study shows how the withdrawal of insurance from maternity units in Monaghan and Dundalk in 2001 catalysed significant change in the provision of maternity services in that region.[14] The SCA has alerted hospital authorities to elevated risks, as in the case of Portlaoise Hospital when "… the SCA did indeed raise concerns it had in 2007 and 2008 about maternity services in Portlaoise on the basis of the notifications of incidents it was receiving...the response from the hospital was inadequate to none at all"[12] (p. 50). Adopting commercial approaches to insurance, including risk assessments and rating techniques, and communicating to hospital management in financial terms would help management better understand the broader financial implications of their decision making. In short, inactions like not increasing staffing or not improving training, currently accounted for as cost-savings, are likely to be raising overall costs when allowance is made for the consequent costs of the increased associated risks. We suggest that the SCA be given greater powers – powers akin to those that commercial insurers can exercise to control and shape the risks borne. Crucially, the SCA must be enabled to signal publicly when the risks are becoming unacceptable in any maternity unit.

Discussion

There are no winners when it comes to medical negligence cases. The plaintiff suffers a reduced quality (and perhaps quantity) of life that no monetary award can make good. The suffering is shared by parents and family, especially in the case of catastrophically damaged infants. The medical and other hospital staff are demoralised. After the trauma of the incident itself follows the prolonged litigation process, giving years of stress and anxiety to all.

The HSE has made a provision of €400 million in its budget to transfer to the SCA for claims against it expected to settle during the 2020.[15] The same report states that the HSE continues to fail, by a significant margin, to investigate adverse incidents in a timely manner. In 2019, the HSE set as a target that 80% of reviews of serious incidents be completed within 125 calendar days of the occurrence. The actual outcome for 2019 is projected as just 20%. Such delays do not demonstrate an eagerness to learn from such events.

There must come a tipping point when the sums paid out by way of settlements for mismanagement of clinical services become appreciably larger than the additional costs of operating a sound system. Perhaps this tipping point has been reached in the case of maternity services in Ireland.

Declaration of Conflicts of Interest:
The authors confirm that they have no conflict of interest to declare in relation to this work.

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