Senate Community Affairs References Committee

ANSWERS TO QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Support for Australia's thalidomide survivor's inquiry

2 November 2018

Question no: 1

Type of Question: Hansard page reference 23

Question:

Senator STEELE-JOHN: Fantastic. When was that? First of all, have you got the date there for us that the report was commissioned? I want dates for when it was commissioned and when it was delivered.
Ms Flynn: We will have to take that on notice for you.
Senator STEELE-JOHN: Okay, but do you have the delivery date, though? When was it on the minister's desk?
Ms Flynn: Again, I would have to check the specific dates. I don't have those. But it was some months after.

Answer:

The Report from Maddocks Lawyers was commissioned by the Department of Health on 26 April 2016.
A draft Report was provided to the Department on 6 May 2016. The Government then entered caretaker mode for the 2016 election. This draft Report was provided to the Minister's Office on 5 August 2016.
The final Report was delivered to the Department of Health on 8 August 2016.

Thalidomide Group Australia's Response:

With regards to the Maddox Report:

- Lisa McManus lodged an application (on October 11,2016), seeking access under the Freedom of Information Act 1982.
- Early in November 2016, during a telephone conversation with Elizabeth Flynn, she informed Lisa that the FOI application had landed on her desk for review … "you wouldn't believe whose desk it landed on?"
  Ms Flynn explained she had declined the application on the ground of "legal professional privilege".
  Ms Flynn informed Lisa that a letter confirming and explaining her decline would follow.
  Lisa asked during this conversation if "I had the right of appeal?"
  Ms Flynn informed Lisa that she had the "right" … but assured that the appeal would land on her desk as well, which she would again 'decline'.
- Lisa McManus felt she had been "shut down" with no where to go.
- Notice of Decision from foi@health.gov.au was emailed to Lisa McManus on November 10, 2016.

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Question no: 4

Type of Question: Hansard page reference 29

Question:

Senator STEELE-JOHN: My understanding, however, is that the state and federal government did, at the time, sponsor the placement of an advertisement in every Victorian paper, as is evidenced by a correspondence with Minister Wade, referencing why further correspondence hadn't been placed in additional interstate papers. It absolutely seems like, at the time, there was a broad consensus that regardless of the current government's interpretation of the policy, the federal government could have been doing more.
Ms Flynn: I can't confirm those activities**.**
CHAIR: Could you take that on notice, to check your records or double check that for us, please?
Ms Flynn: Yes, certainly.

Answer:

The Department of Health is unable to confirm the activities associated with the placement of advertisements in Victorian or interstate papers at the time that thalidomide was being removed from the Australian market.
The Department of Health is also unable to confirm whether or not there was a broad consensus that the Federal Government could have been doing more. However, as part of the Australian response to the events associated with thalidomide, an independent committee was established to monitor the safety of new medicines as well as medicines already available. The Australian Government established the Australian Drug Evaluation Committee (ADEC) in June 1963.
Subsequently the Australian Government established a Therapeutic Goods Branch within the Department of Health in 1967. The Therapeutic Goods Administration (TGA), as it now stands, was formed in 1989.
The TGA today carries out a range of assessment and monitoring activities to ensure therapeutic goods supplied in Australia are of the highest standards. It provides a national framework to ensure medicines and medical devices are safe, manufactured according to international quality standards and perform as intended.

Thalidomide Group Australia's Rebuttal:

The Federal Health Council [the precursor to the National Health and Medical Research Council (NHMRC)] was established in 1926 following a Royal Commission's recommendations.
The NHMRC was active from 1937 – 1961. Its goal was to establish a uniform approach to labelling and standards and emphasized the need for independent laboratory testing of pharmaceuticals released onto the Australian market.

It was evident that the Australian government was negligent in following their own guidelines.

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Question no: 5

Type of Question: Hansard page reference 29

Question:

Senator STEELE-JOHN: We've also heard that procedures such as mastectomies and double mastectomies have been required as part of living with this situation. There has been a number of experiences outlined to us where folks have been knocked back for those procedures and others on the grounds of it being a 'cosmetic' procedure rather than a medically necessary procedure. Could you give us any information about how the health department's relevant policies interact with a decision like that?
Ms Studdert: I was aware that that was something that was occurring. I was not aware, until you just mentioned it then, that Medicare had not been available in those cases. I would certainly be happy to take it on notice to talk to my Medicare colleagues, the people who are responsible for the MBS items. I know MBS items can be quite prescriptive about the conditions for which they are used, but I think that is something that we could certainly get further advice on.
CHAIR: I appreciate that. That would be useful.

Answer:

The Medicare Benefits Schedule (MBS) contains three services that can be claimed for mastectomy and double mastectomy procedures. Please see below for relevant item descriptors for these services:

31519 Breast, total mastectomy (H) (Anaes.) (Assist.)
Fee: $736.05 **Benefit**: 75% = $552.05

31524 Breast, subcutaneous mastectomy (H) (Anaes.) (Assist.)
Fee: $1,040.25 **Benefit**: 75% = $780.20

31525 Breast, mastectomy for gynecomastia, with or without liposuction (suction assisted lipolysis), not being a service associated with a service to which item 45585 applies (H) (Anaes.) (Assist.)
Fee: $520.00 **Benefit**: 75% = $390.00

The MBS explicitly states that non-therapeutic cosmetic surgery services do not attract Medicare benefits. The Department of Health relies on the clinical judgement of medical practitioners to determine whether a patient meets the eligibility criteria for accessing services on the MBS.

Thalidomide Group Australia's Rebuttal:

Thalidomide affected survivors who have undertaken breast augmentation or mastectomies, have done so at their own costing as these procedures were deemed "elective" by Medicare.

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Question no: 7

Type of Question: Hansard page reference 33

Question:

Senator WATT: I don't know how you pronounce the name of the German company. Is it Chemie Grunenthal?
Ms Flynn: That's right.
Senator WATT: They have given no support to Australian victims. Does the department have any kind of commercial or business relationship with that drug company today?
Ms Studdert: I don't know if it still exists as such.
Ms Flynn: It does.
Ms Studdert: Okay. I'm sorry.
Ms Flynn: I'm not aware—
Senator WATT: Could you take that on notice for us?
Ms Flynn: Did you say the department or the government?
Senator WATT: Let's do both.

Answer:
The Department of Health does not have a commercial or business relationship with Chemie Grunenthal. The Department is not aware that a commercial or business relation exists with the Australian Government more broadly.

Thalidomide Group Australia's Rebuttal:

Contrary to the answer provided by the Department of Health, the following [Chemie Gruenthal] pharmaceutical products are trademarked and licensed for sale here in Australia.

- **Palexia SR** (S4 prescription)
  Is available on the PBS.
  The licensee to sell this product is Seqirus (bioCSL), 63 Poplar Road, Parkville 3052.
  Ph: (03) 9389 2000
  Ironically, Seqirus was registered on October 11, 2012 … which coincides with the Gordan Legal Class Action for the newly identified Thalidomide survivors of July 18, 2012.

- **Versatis**
  The licensee to sell this product is Seqirus (bioCSL).

- **Zalviso**
  The licensee to sell this product is AcelRx

- **Zydol**
  Is available on the PBS.
  The licensee to sell this product is Arrow Pharmaceuticals Pty Ltd, 15-17 Chapel Cremorne 3121. Phone: 1300 927 769.

- **Tramal** (S4 prescription) a.k.a. Tramadol or Tramacet
  Tramal is a registered trademark of Gruenthal GmbH, used by CSL Limited as authorised user.
  Tramal is distributed by bioCSL (Australia) Pty Ltd under license from Gruenthal GmbH.

The above information was located after a 'brief' search of the Internet.

It would appear the Australian Health Department and the Australian Government currently has (and have always had) a commercial arrangement with Chemie Gruenthal GmbH.

Chemie Gruenthal have never apologised to, or paid compensation to, Australian survivors of Thalidomide.

The Australian Government has never applied sanction or penalties on Chemie Gruenthal. Rather, they have shown more support towards Chemie Gruenthal than they have towards the Australian victims the helped create.

The Health Department appear remiss in their research techniques, and their lack-lustre efforts in providing information throughout this entire process is abysmal.

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Question no: 15

Type of Question: Written question from Senator Siewert

Question:

The Department's submission says 'approximately 100 survivors' received compensation in 2014. Does the Department have an exact figure on how many survivors were compensated?

Answer:

The Department of Health is aware that it has been publicly reported that 107 thalidomide survivors received compensation in 2014.

Source:

- https://www.theaustralian.com.au/news/inquirer/william-mcbride-paid-the-price-oftaking-on-pharmaceutical-giants/news-story/0a871168a10c163caeed93db96e9116e, accessed 13 November 2018.
- https://www.news.com.au/national/breaking-news/m-thalidomide-compo-claimapproved/news-story/3fcda565c58611624053a12aff17da9f, accessed 13 November 2018.
- http://www.stuff.co.nz/national/health/9698482/Thalidomide-survivors-compensationapproved, accessed 13 November 2018.

Thalidomide Group Australia's Rebuttal:

Again, the Federal Health Department has displayed its apathetic ability to research and collate information. The response they have provided was collected from newspaper articles (one being from New Zealand).

The 107 claimants spoken of in these articles are a total of both Australia and New Zealand and represent the newly discovered victims by Gordan Legal. This number therefore STILL does not represent the exact total of Thalidomide survivors recognised here in Australia.

One simple phone call from the Department to Gordan Legal, would not only result in a quick response, but also, an accurate number. To rely on statistics [solely] from newspaper articles appears amateurish and ineffectual.