

Iowa pays \$6.6 million to settle claims in FY2010

By ROD BOSCHART The Gazette

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DES MOINES, Iowa —

State government paid nearly \$6.6 million to settle claims and resolve disputes caused by employee mistakes, workplace misconduct or other damages in the past fiscal year, officials said.

More than half of the fiscal 2010 total paid for settlements and judgments that were approved by the State Appeal Board involved a \$3.3 million medical malpractice case at the [University of Iowa Hospitals & Clinics](#) and all but about \$1.4 million of last year's payout was under the regent universities' heading.

The fiscal 2010 judgments included \$450,000 paid to resolve two lawsuits stemming from the Legislature's decision to end the [Iowa Lottery's TouchPlay](#) video lottery enterprise in May 2006. At the height of the lottery program there were more than 6,700 devices in more than 3,000 locations statewide mostly private businesses that entered into a partnership with the state lottery.

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TouchPlay settlements were a major share of the record \$23.5 million in judgments the state paid in fiscal 2008. The overall total dropped significantly to \$2.55 million in fiscal 2009 before returning to more normal yearly figures in the 12-month period that ended June 30.

Joseph Barry, the state's risk manager within the Iowa Department of Management, said Thursday he is working to borrow a concept from other states to devise a training "playbook" to help minimize risk within state agencies and wants to study whether the state should be more aggressive in challenging claims, although he noted state attorneys estimate the overall yearly settlements represents about 3-5 percent of the claims brought against state entities.

"I think we probably have a ways to go yet," said State Auditor David Vaudt, a member of the three-person State Appeal Board. "I would like to see us be more proactive and try to prevent a lot of things that come before us. The ones that are especially frustrating to me are the lawsuits on harassment and some of those areas that we definitely should be able to eliminate with the right kind of training for people and the right kind of guidance."

State Treasurer Mike Fitzgerald, another appeal board member, said he hoped the increased state focus on risk management would help curtail costs judgments and settlements, but he noted "you're never going to know when a fraud like CIETC is going to happen or some legislative action like TouchPlay is going to happen that's really going to throw the state into a tailspin."

Fitzgerald, Vaudt and Barry conceded that the current fiscal year could pose a challenge because more than 2,000 senior state employees recently accepted incentives to retire early, taking a lot of institutional memory and years of experience out the door with them that could create some slack for the new people hired to fill some vacant posts or the remaining workers being asked to assume more duties.

"There are some costs with cutting back of state government. That's part of it," Fitzgerald said. "We lose some of the oversight, we lose the expertise. They're the highest paid for a reason usually. You have to ask the rest of the staff and the new people to pick it up."

State records indicated the 47 judgments paid last fiscal year included claims brought for medical negligence, personal injuries, discrimination based on age, race, sex and disability, harassment and retaliation, excessive force and a vehicle search by public safety officers, a wrongful death allegation,

attorney fees, and a \$75,000 repayment of misused funds in the CIETC scandal involving the payment of excessive salaries to leaders of a job-training program.

The \$3.3 million settlement involved a child born with cerebral palsy whose parents alleged his condition was the result of negligence on the part of UI Hospital staff during labor specifically the failure to perform a Cesarean section earlier in the labor process, according to state records.

In a separate medical negligence case, state officials agreed to pay \$500,000 to settle a claim brought by the family of a woman who contracted Legionnaires' disease at University Hospitals and died, according to state records. The family of Sandra Shank, 57, who died Sept. 3, 2006, at the **Iowa City** hospital, filed a lawsuit in 2008 alleging she died of Legionella pneumonia after she was exposed to Legionella bacteria as a patient at the hospital. The state denied liability in the 2006 death.

In another case involving University Hospitals, the state paid \$250,000 to settle a claim brought by a Davenport couple that alleged negligence in the 1997 treatment of their daughter by surgeons in the process of repairing congenital **heart** defects. Brian and Beth Atkins alleged their daughter sustained severe multi-system injuries due to complications that arose when surgeons removed pacing wires from their daughter Alison's heart.

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