

THE JUDICIALIZATION OF HEALTH IN THE DAILY LIVES OF MUNICIPAL HEALTH MANAGERS

A JUDICIALIZAÇÃO DA SAÚDE NO COTIDIANO DOS GESTORES MUNICIPAIS DE SAÚDE

LA JUDICIALIZACIÓN DE LA SALUD EN EL DÍA A DÍA DE LOS GESTORES MUNICIPALES DE SALUD

 <https://doi.org/10.56238/sevened2025.031-020>

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ABSTRACT

This study aimed to analyze the impact of health judicialization on the daily work of municipal managers from the 11th Regional Health Office of the State of Ceará, Brazil. Health judicialization, understood as the use of the Judiciary to ensure access to healthcare services and medicines, is a growing phenomenon in Brazil and has been imposing administrative and financial challenges, especially on small municipalities with limited resources and infrastructure. This is an exploratory, qualitative study conducted from February to March 2019, involving 15 municipal health secretaries who had been in office for at least one year and had experienced legal actions against the Unified Health System (SUS) during their administration. Data collection was carried out through semi-structured interviews, and the analysis was based on the narrative analysis technique, supported by NVivo 10 software. Results showed that all managers had dealt with judicial cases, with common measures including the creation of specific sectors or committees to monitor such demands. The main difficulties reported were SUS underfunding, lack of clarity in the division of responsibilities among federal, state, and municipal levels, insufficient dialogue with the Public Prosecutor's Office, and the need to finance high-cost procedures or those unavailable in the region. It was observed that judicialization directly disrupts prior planning, dismantling collective programs and actions, and significantly impacts the municipal budget by reallocating resources originally intended for collective public policies. It is concluded that strengthening institutional dialogue between the Executive and the Judiciary, investing in technical team training, and adopting preventive strategies are essential to reduce the number of judicial demands and their effects on public health management.

Keywords: Health Judicialization. Municipal Management. Unified Health System. Public Policies. Health Budget. Right to Health.

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RESUMO

O presente estudo teve como objetivo analisar o impacto da judicialização da saúde no cotidiano dos gestores municipais pertencentes à 11^a Regional de Saúde do Estado do Ceará. A judicialização da saúde, entendida como a utilização do Poder Judiciário para garantir acesso a serviços e medicamentos, constitui fenômeno crescente no Brasil e vem impondo desafios administrativos e financeiros, especialmente a municípios de pequeno porte, onde os recursos e a infraestrutura são limitados. Trata-se de uma pesquisa exploratória, de abordagem qualitativa, realizada no período de fevereiro a março de 2019, com 15 secretários municipais de saúde que atuavam há, no mínimo, um ano no cargo e que já haviam vivenciado ações judiciais contra o Sistema Único de Saúde (SUS) em suas gestões. A coleta de dados foi feita por meio de entrevistas semiestruturadas, e a análise baseou-se na técnica de análise de narrativas, com apoio do software NVivo 10. Os resultados indicaram que todos os gestores entrevistados já tiveram contato com processos judiciais, sendo comuns medidas como a criação de setores específicos ou comitês para acompanhamento dessas demandas. As principais dificuldades relatadas foram o subfinanciamento do SUS, a falta de clareza na divisão de responsabilidades entre as esferas federal, estadual e municipal, a carência de diálogo com o Ministério Público e a necessidade de custear procedimentos de alto custo ou indisponíveis na região. Observou-se que a judicialização interfere diretamente no planejamento prévio, desestruturando programas e ações coletivas, e impacta significativamente o orçamento municipal, levando à realocação de recursos originalmente destinados a políticas públicas de caráter coletivo. Conclui-se que é fundamental o fortalecimento do diálogo institucional entre Executivo e Judiciário, a capacitação das equipes técnicas e a adoção de estratégias preventivas capazes de minimizar o número de demandas judiciais e seus efeitos na gestão pública da saúde.

Palavras-chave: Judicialização da Saúde. Gestão Municipal. Sistema Único de Saúde. Políticas Públicas. Orçamento em Saúde. Direito à Saúde.

RESUMEN

Este estudio tuvo como objetivo analizar el impacto de la judicialización de la salud en el trabajo diario de los gestores municipales de la 11.^a Oficina Regional de Salud del estado de Ceará, Brasil. La judicialización de la salud, entendida como el uso del poder judicial para garantizar el acceso a los servicios de salud y los medicamentos, es un fenómeno en auge en Brasil y ha impuesto retos administrativos y financieros, especialmente a los municipios pequeños con recursos e infraestructuras limitados. Se trata de un estudio exploratorio y cualitativo realizado entre febrero y marzo de 2019, en el que participaron 15 secretarios municipales de salud que llevaban al menos un año en el cargo y habían sido objeto de acciones legales contra el Sistema Único de Salud (SUS) durante su administración. La recopilación de datos se llevó a cabo mediante entrevistas semiestructuradas, y el análisis se basó en la técnica de análisis narrativo, con el apoyo del software NVivo 10. Los resultados mostraron que todos los gestores habían tenido que lidiar con casos judiciales, con medidas comunes que incluían la creación de sectores o comités específicos para supervisar dichas demandas. Las principales dificultades señaladas fueron la insuficiencia de fondos del SUS, la falta de claridad en la división de responsabilidades entre los niveles federal, estatal y municipal, el diálogo insuficiente con la Fiscalía General y la necesidad de financiar procedimientos de alto costo o que no están disponibles en la región. Se observó que la judicialización perturba directamente la planificación previa, desmantela los programas y acciones colectivas y afecta significativamente al presupuesto municipal al reasignar recursos originalmente destinados a políticas públicas colectivas. Se concluye que



el fortalecimiento del diálogo institucional entre el Ejecutivo y el Judicial, la inversión en la formación de equipos técnicos y la adopción de estrategias preventivas son esenciales para reducir el número de demandas judiciales y sus efectos en la gestión de la salud pública.

Palabras clave: Judicialización de la Salud. Gestión Municipal. Sistema Único de Salud. Políticas Públicas. Presupuesto Sanitario. Derecho a la Salud.

1 INTRODUCTION

This article aims to analyze the context and implication of judicial decisions in the daily life of municipal health managers, in view of the growing search of users to the judiciary to guarantee health services and medicines.

Judicialization is one of the current dilemmas of health care, whose demands are growing and resources are scarce and often misused. In the middle of this dispute are the people, health professionals and managers. It is in this context that the most diverse types of health services are managed, managed, and used (BARROSO, 2017; MENDONÇA, 2019).

The judicialization of health can be defined as a legal phenomenon that aims to guarantee health services to citizens, through lawsuits. Over the years, it has been understood from different perspectives, presenting positive and negative aspects for the realization of the right to health (CANUT, 2017; SANT'ANA, 2009).

The phenomenon of judicialization has generated effects in all federative entities, considering that the number of lawsuits on the subject has had a relevant growth. In this line, data from the National Council of Justice (CNJ) indicate that in 2016 the number of lawsuits on the subject amounted to one million and three hundred thousand lawsuits (NATIONAL COUNCIL OF JUSTICE, 2017).

This growing increase in judicial measures in the face of health actions and services may mean an increase in the perception of the right to citizenship, but it may also hide aspects that characterize diversity, social and economic difference, broad access to information and the greater expansion of health services offered by the government (CONASS, 2015; BIEHL et al., 2012).

Thus, health service managers have to deal with the problems inherent to the prerogatives of citizens when they request the guarantee in a comprehensive and universal way by the State of social rights guaranteed in the Federal Constitution of 1988 and in the specific health legislation (CONASS, 2015).

It should be considered that the phenomenon of judicialization can be presented in two aspects. The first brings the understanding that judicialization is a necessary resource in a society that does not know which path to follow in the face of the failures of the powers responsible for enforcing constitutional guarantees. The second strand concerns the inversion of the roles of the powers of the State (ZEVALLOS, 2019).

The Federal Government's spending on lawsuits related to health in 2015 was R\$ 1 billion, meaning an increase of more than 1,300% (from R\$ 70 million to R\$ 1 billion) in seven

years. Of these, 80% corresponded to actions for the supply of medicines (LEITE, 2018; NATIONAL COUNCIL OF JUSTICE, 2019).

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In small municipalities, court decisions can actively compromise the public budget and the development of public policies. This is the case of Buritama, in the interior of São Paulo, a city of 15 thousand inhabitants with a budget for the supply of medicines and hospital medical supplies of R\$ 650 thousand/year. A single patient won, through a lawsuit, an electrode implant surgery to alleviate Parkinson's disease, in the amount of R\$ 108 thousand (SILVA, 2018).

As municipal health managers, we deal daily with the difficulties of managing the system with financial and structural limitations, seeking to ensure comprehensive and quality care for our citizens. Judicial decisions, by guaranteeing individual benefits, interfere in planning and collective actions. Therefore, it is essential that we, managers, are prepared and informed to deal with these issues in the best way (GOUVÊA, 2018).

This work raises questions about how managers deal with lawsuits. What impacts do they have on the financial and administrative aspects of municipal health departments? How do managers follow up on these lawsuits? Is there a periodic review of these requests?

To respond to this research problem, it was necessary to use a qualitative approach, through a survey with municipal health managers of a Health Region of the State of Ceará.

Addressing this topic, at the current time when the country is experiencing difficulties in implementing health services, decreasing financial resources and increasing lawsuits, will bring an important discussion about the judicialization of health and how it intervenes in the daily lives of SUS managers and what their perceptions are on the subject.

2 METHODOLOGY

This is an exploratory study based on a qualitative approach with managers of municipal health funds in the 11th Regional Health of the State of Ceará, which comprises 24 municipalities that make up the Regional Health of Sobral, and took place in February and March 2019. The chosen Region is justified by presenting small, medium and large municipalities, thus covering different perspectives of managers with their particularities.

Secretaries appointed for a year or more as manager of the municipal health fund and had at least one lawsuit against SUS were included in the survey. Thus, the subjects of the research were 15 (fifteen) municipal health secretaries who work in municipalities that make up the 11th Regional Health Region of Sobral (CE). These, in order to preserve their identities, were called Greek Gods, being: manager I – Apollo, manager II – Homer, manager III – Dionysus, manager IV – Athena and manager V – Ares.

Data collection was based on a questionnaire with questions and characteristics of the subjects researched within a semi-structured script. To analyze the material collected in the interview, the technique of narrative analysis was used, in order to understand the experience in a process of collaboration between researcher and researched, according to the proposal of Schütze (2011), who suggests the following steps: identify the indexed and non-indexed elements; carry out the formal analysis of the text; make the structural description of the content and the analytical abstraction; perform knowledge analysis; and finally, to make the contrastive comparison and word cloud, using the NVivo 10 software.

The analysis is divided into: characterization of the subjects and the statements of the municipal health managers, which was subdivided into four axes: 1. The experience of the municipal health managers in relation to cases of judicialization in their municipalities; 2. The main difficulties with the process of judicialization of health and the impacts that judicialization can cause in the municipality, in the view of municipal health managers; 3. Way of following up on judicial demands in the municipalities; and 4. The monitoring of judicial processes installed in previous administrations. The study was approved by opinion No. 3,285,709.

3 RESULTS

How many were interviewed? municipal managers where 100% have an undergraduate degree, and the highest frequency was that of nurses with 33.4% (05), followed by 20.1% (03) pedagogues, 13.4% (02) Social Workers, 6.6% represented (01) Psychologist, (01) Biologist, (01) Lawyer, (01) Business Administrator and (01) Accountant.

In the variable time as secretary of health, 40.0% (06) had been secretaries for less than five years and 60.0% (09) had been secretaries of health for more than six years. When asked if they had a course in management, 46.7% (07) answered that they had it and 53.3% (08) did not. Regarding the monthly income, it varied between four minimum wages, 6.7% (01), from four to eight minimum wages, 80.0% (12) and 13.3% (02) who received more than eight minimum wages. When asked about cases of judicialization in health in their

municipalities, only 33.4% (05) answered that they had some cases judicialized in the municipal health department.

3.1 GRAPHICALLY REPRESENTS THE SPEECHES OF MUNICIPAL MANAGERS

From the semi-structured interview carried out with the selected municipal managers, it was possible to identify the main points addressed by the target audience.

Figure 1

Word cloud of the interviews with managers



Source: Nvivo10.

The interviews were transcribed and placed in the NVIVO program, resulting in the main keyword: health, represented 1.75% (21), followed by judicial words with 1.17% (14), municipality with 1.08% (13), judicialization with 0.92% (11) and finally patient and actions, with 0.75% (11).

This analysis was important to extract from the interview with the managers the most important issues in their speech and transform it into subsidies for the construction of the study's analyses.

4 DISCUSSION

4.1 THE EXPERIENCE OF MUNICIPAL HEALTH MANAGERS IN RELATION TO CASES OF JUDICIALIZATION IN THEIR MUNICIPALITIES

From the managers' reports about their experiences with judicialization, we can extract three important elements. The first is that everyone, in some way, has already had contact with some judicial decision, some with a greater number, others with a lesser number, but both understand what characterizes a judicialization action in health. Secondly, there is the understanding that it is necessary to have a trained and reference team to take care of legal cases. And, third, there is the recognition of the importance of institutional dialogue between the Executive Branch and the Judiciary to improve the management of these demands (OLIVEIRA, 2020).

Apolo's account explains to the organization how legal cases are handled in the secretariat:

I am in charge of the administrative and financial issues of the Health Department, so the whole scenario of judicialization with regard to compliance, goes through our office, especially those processes that concern the issue that have costs. Some process that is only performed in the routine of the service without the cost, even passes through us, but only for the purpose of knowledge. Over the years, we have studied more about the subject and structured the secretariat to monitor the processes (APOLO).

Apolo reinforces that he has been studying the subject and has structured his employees to firmly monitor the processes. Homero and Atena, on the other hand, reported in a similar way their experiences with cases of judicialization and cite the creation of successful sectors and experiences that are replicated in the search to reduce the problems of the judicialization of health.

The judicialization of health has been appearing increasingly in all Brazilian municipalities. We need to be prepared, trained. Therefore, we created within the Health Department, in partnership with the municipal attorney's office, a sector for study, analysis of cases judicialized in our municipality. So, the whole process goes through this team (ARES).

I have worked in another municipality that had a much higher demand for legal cases than I have today in this municipality. So, I brought to implement here the actions that worked there, in order to control this number of lawsuits. One of them was the implementation of the health judicialization committee (ATENA).

The managers expose their concerns with the cases of judicialization and their dilemmas faced in the routines of the secretariat. They describe that many charges of the Public Prosecutor's Office (MP) in their municipalities are about the transportation of patients undergoing treatment outside the home, followed by the supply of medicines, as observed in the statement of one of them, as follows:

We are organizing ourselves, instituting a sector within the secretariat to take care of the demands, not only of the cases already judicialized, but also of the administrative processes that have not become lawsuits. We have difficulties in trained human resources, due to the lack of resources for their hiring, but we understand that we need to work on these issues (HOMERO).

The need for institutional dialogue was described during the interviews, pointing out the importance of this tool for solving cases and reducing actions. This dialogue in the municipalities takes place between legal advice from the municipal health departments and the judiciary. According to Dionísio, the experience of institutional dialogue is already a reality in some municipalities. He points out positive results, especially about the functioning of the SUS, in line with what another manager points out in his speech:

Our experience with judicialization is due to the nucleus that we have implemented in the health department to monitor judicial cases, where it has given us great support and resolution. Of course, we were not able to avoid all the lawsuits, but, in this way, we were able to create a dialogue with the judiciary, in addition to planning the purchase of medicines, for example (ARES).

Atena emphasizes, exemplifying in her speech, the importance of institutional dialogue in a specific case that occurred in her municipality:

We did not have an excess of cases of judicialization of health. However, we have a very strange case, where the municipality and the state must bear all the expenses of the treatment that the patient needs, without actually specifying what should be assumed by the public entity. The word "all" in this case is very broad, since this patient's disease is chronic. In this way, it does not make it clear what the municipality's health department really is responsible for. It is worth mentioning that many judicializations do not happen due to the establishment of dialogue with the Public Prosecutor's Office and the Judiciary, a fact that needs to be further deepened (ATENA).

4.2 THE MAIN DIFFICULTIES WITH THE PROCESS OF JUDICIALIZATION OF HEALTH AND THE IMPACTS THAT JUDICIALIZATION CAN CAUSE IN THE MUNICIPALITY, IN THE VIEW OF MUNICIPAL HEALTH MANAGERS

For municipal health managers, judicialization is seen as a means of complying with the law and what the SUS recommends. However, the growing number of lawsuits has created financial difficulties, harming several areas of health, especially those focused on prevention and promotion. Judicialization, although it opens a new door of access to the system, ends up benefiting those who resort to the courts and harming those who are waiting for care within the regular organization of the SUS (FERRAZ, 2021).

"Often judicialization harms those who wait in line, those who seek the administrative route within health units and other health equipment. So these people are in the background and those who go through the courts really take the lead", put one of the interviewed managers (APOLO).

Homero explains how judicialization has interfered in his municipality and in the organization of the system:

It becomes difficult for public management when decisions compromise the purchase of more expensive drugs without proof of their efficacy and safety. Thus, resources that the management would use to make investments, end up being used to guarantee a judicial decision (HOMERO).

In the compression of managers, the judicialization process is creating a new path for access to the health system and with that, the principle of equity of the Unified Health System (SUS) is injured, which brings in its concepts that more should be offered to those who have less and thus, it is not always possible.

Litigation is making the health care system more unfair, irrational, and elitist. The courts are creating a two-tier health system: one for those who can use and have access to any type of treatment, regardless of the costs, and another for the rest of the population, who do not have access to restricted care and, thus, the individual right is overriding the collective right (ARES).

The understanding that the judiciary is fulfilling its role within its constitutional competence is clear to managers. However, the intervention of the judiciary in public management affects the financial, administrative and budgetary planning of that secretariat, as all this planning is carried out in a previous year, as is the case with the budget. Apollo translates his concern, putting these questions in a speech:

The judiciary, despite fulfilling its role, the constitutional competence that was given to it, the public administration has an annual budget plan, fixed in the revenue forecast, during that financial year. And judicialization intervenes directly in this planning. So, something that the public administration plans to carry out, an action A, a project B or program C, at a given time depending on the volume of judicial decisions or how much each decision to the sum of these decisions that cost the administration can directly affect this planning (APOLO, 2019).

The SUS already has scarce resources, so the judicialized cases interfere with the planning carried out for the year. Thus, the actions that the management wants to carry out can be barred due to lack of resources.

The lack or little dialogue with the Public Prosecutor's Office is emphasized in the managers' discourse, placing this problem as one of the main difficulties, followed by the underfunding of the SUS, because the small municipalities are unable to maintain the services and actions, while having to comply with the judicial determinations, as we observed in the statements of two different managers:

One of the biggest difficulties for us is the dialogue with the Public Prosecutor's Office. Today the judiciary sees administrations in a generic way, as all administrations were irresponsible administrations, without commitment to solve things, and beyond the lack of dialogue. You also have an underfunding of the SUS, which joins the health is tripartite, state government, federal government and municipal government. "Today, in my understanding, there is still a lack of direction in decreeing what is the obligation of the municipality, what is the state and what is what is the federation. So, in addition to the difficulty of interlocution, the misunderstanding of the Public Prosecutor's Office of how the unified health system works, of the prosecutors who do not understand how the health system works, you also have this misunderstanding of the obligation of each entity" (HOMERO).

The main difficulties with the process of judicialization of health in my administration were the financial disorganization, caused by the lawsuits, the excessive search of users by the Public Prosecutor's Office, often not even going to the health services, pharmacy or secretariat to find out if the municipality would be able to meet the user's demand, purchase inputs, medicines or payment for consultations or procedures with the recommendation of the Public Prosecutor's Office and the concern of the understanding of the external control bodies later (ATENA).

They also cite the lack of information, whether from prescribers, managers and even magistrates, about the competence of federated entities in financing the SUS, as well as in

the request for non-standardized medicines, without exhausting the alternatives of the National List of Essential Medicines – RENAME.

Another difficulty pointed out is the lack of services or procedures offered in the health region of the municipalities, where many of the procedures or services judicialized are only available in large centers or only in the state capital. As Dionysius reports:

The biggest difficulties we face are precisely in giving the population access, whether in the region or in the state, to more complex procedures, often procedures that do not exist within the health region. Another factor is the financial issue, these are procedures that are not offered by the SUS and often the municipality has to pay for the procedure at a very high cost so that it can solve its health problem of the person (DIONÍSIO).

Dionísio reinforces that the complexity of the system and financial difficulties make it difficult for public managers to achieve the concreteness of the right to health, with the implementation of public policies, thus preventing another system, the Judiciary, from imposing compliance with the law and determining lawsuits.

The managers corroborate in saying that currently a municipal health manager has to have a lot of creativity, intelligence to circumvent all the difficulties of the position.

The discourse of the managers interviewed about the impacts caused by judicialization are related to two axes: impacts on planning and financial impacts. Regarding the impact on planning, the managers describe how the interference of the judiciary can disrupt the previous planning already carried out by the administrations and approved by the collegiates. We observe the speech of Apolo, who presents how this interference causes impacts on planning:

On the one hand, we have a plan that was previously prepared based on the law, within an organization scenario that is not done in a simplistic way. In parallel to this, judicial decisions are also based on laws, on the Federal Constitution. So there is an apparent conflict of norms and we really need to know how to mediate this, since we have as the central actor of this possible conflict a person who needs to be seen his health condition, his life as a greater good. Court decisions in a way cause impacts on planning, since the manager was not programmed to resolve the purchase of a drug, or to perform surgery or procedure (APOLO).

Once planning is affected, the impacts also affect the financial issue, since the resources programmed in the previous year are finite resources and by taking on large judicial demands, it leads to the financial disorganization of the agency and thus we move from the

objective of public administration, which is for everyone, to the collective, prioritizing the individual. Homer exemplifies this issue in his speech:

I will answer this question by giving an example, where many times when you get into a situation where there is an imputation of the judge to pay for a surgery of R\$ 30,000.00 there is a certain patient, you with an annual expense planning strategy, taking this amount at once, ends up causing a financial and administrative impact, Because you end up having to reprogram yourself, especially in primary care, in prevention actions, which is what small municipalities have to try to do. So you end up breaking all the logistics and a schedule that you had done for the whole year and you have to reschedule yourself, remembering with the amount you have, because no new resources will come (HOMERO).

We observe that the speech of the other managers is the same regarding the financial impacts caused by judicialization:

The financial impacts are enormous, we all know that health is not self-sustaining and the municipalities work within an economy of scale to be able to offer at least basic health services to the population, but we often have to sacrifice their own budget, which has already been previously planned, to pay for procedures that are the responsibility of other spheres and all this in the midst of the pressures of the Justice, of the patient's family and condition, where, in some cases, he cannot wait. A resource that was destined for a service to pay for a person's procedure and often that service that could benefit a much larger group has to wait to be able to resolve this judicial issue, so that we can be accountable to justice and in a way not have wear and tear with the patient, with the family (DIONÍSIO).

Dionísio's concern is the scarcity of funding for health, where the same manager mentions that he already works within an economy seeking to offer the essential services of his competence, although these services often have to be suspended to comply with judicial determinations, which in most cases is the competence of other spheres.

4.3 WAY TO MONITOR JUDICIAL DEMANDS IN THE MUNICIPALITIES

Regarding the form of monitoring of lawsuits, it is verified that the secretariats are organized with the support of legal advice in the secretariat itself and/or with the support of the attorney general's office of their municipality, but regardless of the way they follow the cases, both give special attention, closely monitoring all cases. We observed, only in one of the managers' speeches, the joint support of a nucleus of scientific evidence, linked to a School of Public Health, as Apolo reports:



We have a legal advisory that takes care of all legal issues, but it pays special attention to the issue of judicialization. Although the attorney general's office represents the municipality, but the secretariat's legal counsel plays an important role in monitoring judicial decisions, assisting the municipal attorney's office in the defense and monitoring of these actions (APOLO).

The manager states that the processes that have not yet entered the judicial route are discussed, via institutional dialogue between the legal advice and the Public Prosecutor's Office, where information is provided on how the health system works, the delivery of high-cost medicines, how the queue of surgeries and procedures is organized.

Not unlike this municipality, Ares tells us that the decrease in judicial cases in his municipality has been due to the monitoring of demands and good communication with the Public Prosecutor's Office:

Judicial issues are closely monitored, this monitoring often begins before it becomes official. We have very good communication with the Public Prosecutor's Office and in the secretariat we have legal advice, which maintains contact with the Public Prosecutor's Office. So whenever a demand arrives at the Public Prosecutor's Office, we receive a call or request letter, requesting the municipality to provide information if that demand cannot be resolved. Thus, we have been able to reduce the number of legal cases, through good communication between the legal counsel and the public prosecutor's office, looking for the ways and the best possible way to give accessibility to the patient who seeks legal channels, whether for the acquisition of medication, transportation, consultation, examination or even a surgical procedure of greater complexity (ARES).

Homero points out that the institutional dialogue has been difficult, but that it seeks to record all the actions and services offered by the secretariat, so that these records serve as support in the responses, in a way that supports the information that is requested:

Since 2017 we have tried to anticipate these lawsuits, that is, we seek to execute public policies so as not to reach the need for citizens to resort to justice, but it is not always possible to do so. So the cases that appear, we follow very closely and together with the prosecutor's office and the lawyers of the municipality. We routinely record all actions, all requests and file what is within our competence. When we receive a judicial decision, we look for information in these files to respond in a supported way. Many times we seek to dialogue and dialogue with the public prosecutor's office, although this dialogue has been difficult to access (HOMERO).



In smaller municipalities, where there is not such a large demand for lawsuits, managers end up taking responsibility for monitoring the cases for themselves, as the manager informs us: "My municipality is small and does not have great demand, to follow these demands I advise that all demand be forwarded to me and together with the responsible sector that will meet the demand, we took steps to meet this demand" (ATENA).

4.4 THE MONITORING OF JUDICIAL PROCEEDINGS INSTALLED IN PREVIOUS ADMINISTRATIONS

Over the years, the municipal secretariats have accumulated lawsuits that have lasted for other administrations. These actions are monitored and/or reviewed, as is the case with nutritional diets. The supply of the special diets supplement is monitored by nutritional surveillance, which every six months, evaluates the patient and informs the legal advisor of the patient's nutritional status. With this information, according to Apolo, the cases are reviewed:

The review of the processes is done more in the nutritional part, in the supplement part of the special diets, because, first, there is a proactivity of our nutritional surveillance in monitoring these patients even if they are judicialized, we have patients who receive special diets that are not from the judicial route, that is, they are from the administrative route and there are those from the judicial route. So there is a great role for nutritional surveillance in monitoring this patient, and permanently, for six months, informing the legal advisor, if that patient has already left that condition that no longer needs that diet or not (APOLO).

As for actions to carry out surgery or procedure, the same manager Apolo states that there is no such follow-up, once the judicial determination occurs, the service is carried out and the case is closed.

The managers showed concern in resolving the legal cases they inherited from previous administrations, both when they started the administration in 2017, surveyed the number of lawsuits they had sentenced against the municipality and analyzed each case with their legal advisors and, later, dialogue with patients and family members, resolving the actions, as we observe in the managers' speech below:

When we received the management, we had forty-one lawsuits, we met with legal counsel to analyze each lawsuit, then we talked to the family and patients about the waiting time and the reasons why they led to filing a lawsuit. Analyzing each case, we tried to serve in the best possible way. Of the forty-one processes that we inherited from the previous

administration, it managed to solve forty of them. And over the years, we have gradually reduced judicialization by first talking to the patient, dialoguing with the public prosecutor's office and informing the paths that must have to be taken to try to solve the health problem in the correct way through the normal flow, without the intervention of the courts. When it is necessary to judicialize, we comply (HOMERO).

As I had said before, the municipality was only charged with paying for a patient's treatment because, when we took over in 2017, we asked the public prosecutor's office for a list of all the lawsuits that were in progress. We talked to all the patients, cordially and negotiated, solving the problems, however, this specific action was not informed to us and was judged favorable (DIONÍSIO).

The statements of the managers mentioned above are in line with several studies that demonstrate that the judicialization of health can be mitigated through formal institutional arrangements, such as conciliation centers and technical commissions that promote dialogue between health departments, attorneys' offices and the Judiciary, ensuring decisions based on technical criteria and reducing unnecessary litigation" (ASENSI; PINHEIRO, 2016; VASCONCELOS, 2021; CONASEMS, 2019).

Matias-Pereira (2021) emphasizes, and this perception is corroborated by Vieira (2023), Carvalho (2024), Mergener (2023) and Alves (2025) — that judicialization directly affects the control of public spending, disrespecting budget forecasts and forcing managers to reallocate resources destined to actions and services previously planned for the fulfillment of judicial decisions. This redirection of funds compromises the execution of structuring and collective projects in the health area, and may lead to their reduction or even abandonment, to the detriment of equitable care for the population.

5 FINAL CONSIDERATIONS

As seen, the increase in lawsuits has impacted the municipal health management of many cities. It was possible to observe in the speech of the managers that there is a concern regarding the direction of the judicialization of public management and that it is necessary to strengthen the ties between the executive and the judiciary.

It is worth mentioning that difficulties were found in addressing this subject from the point of view of municipal managers, because no studies were found in the literature that focus on this theme. Another obstacle is the constant change of municipal managers, so at the time of the interview, some did not fit the criteria to participate in the interview.

In any case, the issue of judicialization of health should be discussed and managers heard. It is hoped that the management and the judiciary will find new forms of evaluation, based on dialogue, listening and, above all, the use of efficient, effective and economical tools for public spending, ensuring the implementation of public policies that will collectively benefit the population and reducing judicial cases.

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