

ACCESSING HEALTHCARE AT GAUTENG HOSPITALS & CLINICS:

I KNOW MY RIGHTS

WHAT ARE MY RIGHTS?

Section 27 of the Constitution says:

- Everyone has a right to have access to healthcare services.
- No one may be refused care in an emergency

The Refugees Act says:

- Asylum seekers and refugees have the right to the same basic healthcare services as citizens

The National Health Act says:

- List of persons who are eligible for free healthcare services (except those covered by medical aid schemes)
 - Pregnant and lactating women
 - Children below age of 6
- All persons (except those covered by medical aid schemes) are entitled to free primary healthcare services, including migrants

The national Uniform Patient Fee Schedule says:

- As a patient for admission to a hospital or clinic, you will be classified into:
 - Full paying patients
 - Subsidized (partial) paying patients
 - Patients receiving free services
 - Exempted patients
- Full-fee paying patients include all non-South Africans (e.g. foreigners, tourists, etc).
 - **However, it EXCLUDES**
 - Refugees and asylum seekers
 - Persons from SADC states
 - **This means that if you are a refugee, asylum seeker, or a person from SADC state, you are to be treated as a South African. You need the ID documents to prove you are a refugee, asylum seeker, or person from SADC state.**
- South Africans are subject to a means test based on their income. Refugees, asylum seekers and undocumented migrants from SADC states will be subjected to the same means test based on income to determine how much their fees are subsidized
- If you are a refugee, asylum seeker or undocumented migrant from a SADC state **AND** you have your papers or identification documents, **hospitals are required by law to admit you for treatment. You may, depending on the means test, be required to pay a partial fee.**

HOW WILL I BE CLASSIFIED?

The Gauteng Patient Classification Manual says:

Every person admitted should provide ID documents, including Identity Document; Medical aid card; Appointment card; Pay slip/salary advice; Proof of address; Documentation from other Organs of State

If you are a refugee, asylum seeker or undocumented migrant from SADC state **with papers and ID documents**, you will be classified as a 'subsidized patient' based on your pay slip (income),

Your income determines the category of classification and how much you need to pay for healthcare.

There are three categories: H1, H2 and H3

H1: income less than R36,000 a year

H2: income less than R72,000 a year

H3: income more than R72,000 a year

WHAT IF I DON'T HAVE PAPERS OR ID?

The Gauteng Act No. 4 of 1999: Hospitals Ordinance Amendment Act, 1999 says:

- When a patient applies for admission to a hospital, every person shall be classified into fee-paying categories.
- Under the regulations, the CEO of the hospital may require ID documents to be presented **prior** to admission to hospital, **EXCEPT**
 - Where, the CEO or delegated officer thinks deferring treatment may have **danger or detrimental consequences** to the person seeking treatment

The Gauteng Patient Classification Manual says:

- If you do not have the required ID documents, you are to be classified as H3 – the lowest subsidized group with the highest income
- However, this depends on whether the patient is likely to be in **danger or suffer detrimental consequences** if treatment is delayed.

So this means:

- If you are a refugee, asylum seeker, undocumented migrant or South African citizen without ID documents **AND** your condition, if left untreated can cause danger or further harm to your health, hospitals must not turn you away if you cannot pay the H3 fee.

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WHAT CAN I DO TO ENSURE I GET TREATMENT?

If you:

- are a refugee, asylum seeker, undocumented migrant or South African citizen without ID documents; **AND**
- you cannot pay the fee upfront; **AND**
- you need treatment or else your health is in danger and you are at risk of suffering further harm **AND**
- the hospital officer will not admit you for treatment

You should:

1. Ask for the hospital officer's name (do not be scared, you have a right to ask this and he or she has an obligation to tell you. The hospital officer must not withhold this information)
2. Tell the hospital officer assessing you that you have a right under the Constitution, the Refugee's Act, and the National Health Act to access healthcare services.
3. Tell the hospital officer:
 - a. that provincial legislation and policy says that hospitals cannot turn you away if you don't have ID and if you don't have money to pay upfront **if** turning you away means your condition will worsen and become dangerous to your health
 - b. why you need treatment at a hospital (include information about your medical condition, your medical history, the treatment you seek and why)
 - c. the consequences to your health if you do not receive treatment – how will delaying treatment cause further harm to your condition?
4. If the hospital officer cannot make a decision you should ask him or her to call upon a supervisor to come and assess your situation
5. If the hospital officer calls upon the supervisor, repeat Steps 1 – 4 with the supervisor
6. Make sure you write down the names of the hospital officers
7. If you are still turned away, you should report the incident as soon as possible to
 - a. Consortium for Refugees and Migrants in South Africa (CoRMSA)
 - b. South Africa Human Rights Commission; or
 - c. Public Protector

Consortium for Refugees and Migrants in South Africa (CoRMSA)

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Public Protector

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