



Fact sheet on migration and health in the South African context¹

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The Migrant Health Forum (MHF) is a coalition of civil society organisations concerned with migrant health and access to health care services. The MHF's members include the Consortium for Refugees and Migrants in South Africa (CoRMSA), Jesuit Refugee Services (JRS), the Wits Reproductive Health and HIV Institute (Wits RHI), the International Organisation for Migration (IOM), Lawyers for Human Rights (LHR), the African Centre for Migration and Society (ACMS), SECTION27, African Migrants Solidarity (AMIS), Management Sciences for Health (MSH), Sonke Gender Justice and Wits Family Medicine. MHF is also supported by the Treatment Action Campaign and the Southern African HIV Clinicians Society.

Members of the MHF have received reports of patients, including refugees, asylum-seekers, and undocumented migrants from SADC states, being turned away from health care facilities or told to pay large fees. We are concerned about the inability of these patients to access health care services and seek to understand the way in which the health facilities in Gauteng understand and are applying current policy.

The MHF has also been asked for comment by many journalists intending to cover this important issue. As an introduction to the issue, therefore, we have put together a fact sheet to provide journalists and other interested parties with information. We welcome further questions.

Numbers of non-nationals: Drawing on data from the South African government census and from independent research, South Africa has a population of non-nationals (cross-border migrants) that reflects global norms, accounting for 3 – 4% of the total South African population. This includes migrants from other countries with visitor visas, work and study permits, permanent residence, asylum seeker and refugee permits, and those who are currently without the documents required to be in the country legally – undocumented

¹ Draws on Vearey, J. (2015) Migration, HIV and access to public health care in Southern Africa *Nursing Matters* 6(3) 12-15 and Stevenson, S. (2013). Who is entitled to health care services? *Nursing Matters* 4 (4): 38-40



migrants. However, popular assumptions – including those made by the media - often grossly overestimate the number of cross-border migrants in South Africa. In addition, those who move internally in South Africa are not considered migrants. This is despite the fact that globally, approximately three times as many people have moved within the countries in which they were born making internal migration a much greater global development challenge for regional, national and local governance. This issue plus the common misrepresentation of the numbers of migrants has far-reaching implications for how migration is perceived and responded to in South Africa, including when thinking about public health responses.

Unequal Distribution: It is also important to acknowledge that - as in other countries globally - the cross-border (and internal migrant) population is not evenly distributed across South Africa; higher densities of non-nationals (and South African migrants) are found in major urban centres, in border areas and in smaller, growing urban areas. Therefore statistics taken from areas within the Gauteng Province in relation to migration cannot be taken as representative of other provinces.

Overall, migration can – and should – be good for social and economic development, but in order for these benefits to be realised, this requires ensuring that those who move are able to maintain their health and wellbeing. In South Africa, cross-border migrants are often – unfairly and without evidence - positioned as spreading communicable diseases and as placing a burden on the South African public welfare system, including the public healthcare system. It is of concern that policy and programmatic decisions relating to health and migration are often made in light of assumptions, rather than being based on evidence. The result is that some non-nationals struggle to access the public healthcare services to which they are legally entitled and may, from time to time, require whilst in South Africa.

The healthy migrant effect: Evidence suggests that there is – globally – a phenomenon known as the ‘healthy migrant effect’. This effect shows that there is a positive selection of those who move: to migrate, you need to be healthy. The majority who move are not moving in search of healthcare and are likely to be healthier than the population to which they move into. They may – once in a new country or place – need healthcare from time-to-time, including maternal and child healthcare. However, in spite of the available data that suggests otherwise, it is often assumed that people move to South Africa in order to access public healthcare services. This assumption can lead to a misunderstanding of the reasons why non-nationals may need to make use of the South African public healthcare system from time to time and – as a result – cross-border migrants are often unfairly blamed for placing a burden on an already struggling public healthcare system.



The law / policy: The law on migrant access to health care services is quite clear. Denial of access to health care services to anyone, including migrants, is unlawful. Section 27(1)(a) of the Constitution states that “everyone” has the right to have access to health care services. Subsection 3 further states that “no one” may be refused emergency medical treatment.

The National Health Act 61 of 2003 in section 4(3)(b) states that subject to any condition prescribed by the Minister, the State and clinics and community health centres funded by the State must provide all persons, except members of medical aid schemes and their dependants and persons receiving compensation for compensable occupational diseases, with free primary health care services. In addition, all pregnant or lactating women and children under the age of 6 are entitled to free health care services (at any level).

The Refugees Act 130 of 1998 provides for access to basic health care services by refugees (and by implication asylum-seekers).

The Uniform Patient Fee Schedule exempts certain categories of non-South Africans from being full paying patients. These exempted categories are immigrants permanently resident in South Africa but have not attained citizenship, non South African citizens with temporary residence or work permits and persons from SADC states who enter South Africa illegally. The exemption of these categories of non South Africans from paying full amounts for accessing health care services clearly implies that all health facilities, including clinics, should be providing health care services even to foreign nationals.

The Gauteng Patient Classification Policy Manual provides in Table 1: No 3(c) that undocumented citizens of a SADC state and asylum seekers (and refugees would be included here as well, although this is not spelt out) are entitled to be means tested and receive the same health benefits as South African citizens, at a level of subsidization in line with the means test results. In terms of Table 1: No 4(a), pregnant women who are not in SA specifically for the purpose of obtaining health care and children under 6 are entitled to free health care services.

The South African law and policy on this issue is in line with the SADC Protocol on Health in terms of which SADC states agreed to treat citizens of other SADC states like citizens of their own country.

Notices posted in hospitals requiring “foreign nationals” to pay for health care services are contrary to the policies explained above and are unlawful. The only time that a refugee, asylum-seeker, or undocumented migrant from a SADC state should have to pay for health care services is when he or she does not qualify for free health services in terms of a means test. In that case, like for South Africans, there are sums of money that the patient can be



asked to pay depending on the care required and the type of health facility.

Implementation of the law / policy: While the law is clear, as noted above, it is often not implemented. In recent years we have witnessed an increase in access challenges being reported. These challenges relate to a range of concerns, including:

- A demand for the up-front payment of fees by non-nationals in need of maternal healthcare, including at time of delivery, with reports suggesting that the babies of non-national mothers are not released to the mother until full fees are paid.
- A demand for up-front payment of fees before emergency treatment will be provided.
- The misclassification of non-nationals when calculating co-payments, including documented refugees and asylum seekers being incorrectly categorised as full fee-paying patients.

It is not always clear why the implementation of the law is not taking place. Part of the problem may be that hospitals need some proof of ID to see a patient and they also need proof of income (or a lack thereof). There seems to be a failure on the part of people asking for this information to communicate what they need and how it can be provided. Instead they ask for an ID book or asylum-seekers/refugee permit (sometimes) and if the patient is unable to provide that document they are turned away. They are not told that they can provide other forms of ID (such as foreign passport, affidavit etc). Patients then fail to cross the first hurdle. There also seems to be a problem at the declaration of income stage where some people are not given an opportunity to declare their income - they just get classified as the least subsidised patient. Another part of the problem seems to be busy and/or xenophobic health facility staff who turn people away even when they have papers.

If a South African would not be treated in a foreign country, why should we treat migrants? The first important issue to note is that there are many countries in which citizenship is not a requirement for access to health services on the same terms as nationals. The second issue is more important, and that is that regardless of whether another national health system would treat non-nationals, the South African Constitution and law requires better of us. We have committed through our law to treat South Africans, asylum-seekers, refugees and undocumented people from SADC states the same and our failure to do so is a violation of our own law; law that is seen as progressive across the world.



For further information:

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