

ENDING HOSPITAL DETENTION FOR NON-PAYMENT OF BILLS: LEGAL AND HEALTH FINANCING POLICY OPTIONS



World Health
Organization

HEALTH SYSTEMS GOVERNANCE AND FINANCING POLICY NOTE

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Ending hospital detention for non-payment of bills: legal and health financing policy options/ David Clarke, Aurelie Klein, Inke Mathauer, Aurelie Paviza

ISBN 978-92-4-000883-0 (electronic version)

ISBN 978-92-4-000884-7 (print version)

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Suggested citation. Clarke D, Klein A, Mathauer I, Paviza A. Ending hospital detention for non-payment of bills: legal and health financing policy options. Geneva: World Health Organization; 2020. Licence: CC BY-NC-SA 3.0 IGO.

Cataloguing-in-Publication (CIP) data. CIP data are available at <http://apps.who.int/iris>.

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Key messages

- **The position of the World Health Organization (WHO) is that no person should be detained in a hospital against their will for non-payment of bills and user fees. Nor should the remains of a deceased patient be withheld and not released for unpaid hospital bills and user fees.**
- The practice of hospital detention for non-payment of bills is contrary to international human rights laws and to universal health coverage (UHC) objectives.
- Deficits in the legal system and weaknesses in the health financing system can lead to uncompensated care.
- Legal options are available to end the practice of hospital detention for non-payment of bills and user fees, including: prohibiting the practice of hospital detention; recognizing international human rights in national legislation; committing to UHC in domestic laws; ensuring proper implementation and enforcement mechanisms; and establishing information and reporting mechanisms.
- There are short-term measures to address and prevent uncompensated care at the level of health care providers, including: mobilizing additional funding; creating a specific fund to cover high-cost treatments; expanding, adjusting or reviewing existing user fee exemption mechanisms; and adjusting enrolment conditions of existing health insurance schemes. In the long term, more substantive health financing reforms will be needed.
- Much greater attention is required both from country policy-makers and the international community on the need to ban hospital detention.
- It is necessary to raise public awareness on the issue of hospital detention and that the practice is illegal. At the same time patients have to be aware of benefit entitlements, co-payment requirements and exemption policies.
- The international community should provide specific support – including financial resources – to countries whose people suffer from hospital detention to assist in stopping the practice immediately.

ACKNOWLEDGMENTS

This document was prepared by (in alphabetical order) David Clarke, Aurélie Klein, Inke Mathauer and Aurélie Paviza of the Health Systems Governance and Financing department, WHO headquarters.

The authors would like to thank Kadai Oumar Abatcha, Selassi D’Almeida, Georgina Bonet Arroyo, Moussa Bizo, Amédée Prosper Djiguimde, Kingsley Addai Frimpong, Aboubacar Inoua, Solomon Sitinadziwe Kagulura, Brendan Kwesiga, Tebogo Madidimalo, Maximillian Kassin Mapunda, Regina Munyiva Mbindyo, Ahamada Msa Mliva, Hubert Wang and Fatimata Zampaligre for their insights on country situations. Valuable comments from Fahdi Dkhimi, Alicia Ely Yamin, Kenneth Munge Kabubei and Susan Sparkes are gratefully acknowledged. We also thank colleagues from the Health Systems Governance and Financing department for useful suggestions and feedback during a departmental review meeting.

WHO gratefully acknowledges the financial support received from the United Kingdom Department for International Development (DFID), the Universal Health Coverage Partnership and the German International Cooperation through the Sector Initiative Universal Health Coverage.

1. INTRODUCTION AND PURPOSE

Uncounted numbers of people are detained in public and private hospitals around the world for non-payment of hospital bills, despite the fact that hospital detention is both a human rights violation and inconsistent with efforts towards universal health coverage (UHC) (1, 2). Hospital detention for non-payment of bills occurs when hospital staff refuse to release patients after medical discharge is clinically indicated, because neither the patient nor their family can pay the bill. Another form of hospital detention is refusal by hospital staff to release the bodies of deceased patients to their families when bills remain unpaid (3).

Hospital detentions have been reported in various countries for some time (4–6). Data on hospital detention is not systematically collected, and thus there is limited evidence on the scope and scale of the practice and its negative impact on patients and their families. Available Studies indicate that hospital detention occurs mainly in health systems in low- and middle-income countries. Based on the limited academic research available, Yates, Brookes & Whitaker estimate that hundreds of thousands of people could be affected every year, mostly in specific countries in sub-Saharan Africa and a few countries in Asia (2).

It is clear that these countries are struggling to find practical solutions to end hospital detention, despite legal provisions prohibiting the practice and national commitments to work towards UHC. UHC

means that all people receive needed health services of sufficient quality, without fear that access to those services will expose the user to financial hardship. The objectives of UHC include utilization of health services in line with need (i.e. equitable access), quality of health services and financial protection (7). The international community has committed to achieving UHC as part of the 2030 Agenda for Sustainable Development (8).

The purpose of this paper is to present options to help to end the practice of hospital detention for non-payment of bills and user fees. The paper first explains why the practice is contrary to international human rights laws and UHC objectives. It then explores legal and policy options that can be applied in the short/medium term to address the underlying causes of hospital detention, as well as broader law reform efforts to help to end the practice. Next, the paper discusses short-term health financing measures as well as broader long-term health financing reform options to prevent and address uncompensated care, with the aim to develop more sustainable financing mechanisms for health services.

The paper is based on a review of published articles and grey literature, including press articles, identified by searching PubMed and Google using the search term “hospital detention”. The literature review was supplemented with insights from WHO policy advisory and technical work on health financing in countries, and from a

self-administered questionnaire to WHO country offices. Overall, available literature on hospital detention is scarce; very few published articles were found, and relevant information was largely contained in newspaper reports.

The paper has an implicit focus on public hospitals in relation to health financing policy

options, given that many private hospitals ask for an upfront payment or deposit before admitting a patient. The paper does not explore the issue of people not seeking care due to lack of financial means, nor the issue of denial of care. These issues require detailed exploration in a separate paper.

2. HOSPITAL DETENTION IS A HUMAN RIGHTS VIOLATION AND CONTRARY TO UHC OBJECTIVES

Detention periods can vary greatly from days to months and, in rare cases, to more than a year (4, 9). There are reports of detained patients being locked in a room or handcuffed to a bed. Detainees often have to rely on their families, or begging, for food (9, 10). There are also reports of highly abusive and degrading treatment during detention (2), including sexual abuse and psychological harm (3). For example, it has been reported that women have been pressured to have sex with hospital staff in exchange for cash to pay bills. (2). Hospital detention also has serious ramifications from a clinical viewpoint. It negatively impacts on the physical and/or mental health of detainees by exposing them to hazards due to, for example, overcrowded hospitals and increased risk of infection. It can trigger psychological trauma because of fear, the conditions of detention and the separation from family members (3).

Hospital detention directly conflicts with the objectives of UHC. It prevents patients from accessing needed health services for fear of detention, it is contrary to patient-centred quality care, it exposes patients to financial hardship and, through affecting the most vulnerable, it is contradictory to equity in service use. Hospital detention for non-payment of bills primarily affects the poorest and most vulnerable population groups which have the weakest voice. Women and children are disproportionality affected. In the case of women, medical detention for non-payment of bills can occur for deliveries and related complications. Hospital detention also happens in relation to high-cost treatments, such as cancer treatment for children (5). Furthermore, the practice of hospital detention can have a deterrent effect, by preventing patients from seeking care if they do not have sufficient means to pay for treatment. Hospital detention for non-payment of fees also creates situations of significant hardship for detainees who

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