

Collective Voices

for Health Access

“A strong health system serves everyone. A broken system serves no one.”



YOUR RIGHT TO HEALTH CARE IN SOUTH AFRICA

This guide explains what the South African Constitution guarantees and what health services you are entitled to. It is for **everyone living in South Africa** -

citizens

refugees

asylum seekers

undocumented people

internal migrants

Collective Voices for Health Access is a coalition of civil society organizations, activists, healthcare workers, and researchers that advocate for the right to health for all, including migrants and refugees, and campaigns against health xenophobia and discrimination in South Africa.

WHAT THE CONSTITUTION SAYS

South Africa's **Constitution** is the rulebook for fairness and justice. It replaced apartheid laws to ensure equality, dignity, and human rights - including the rights to life, health, education, and housing.

THE GOVERNMENT MUST:

RESPECT RIGHTS

not interfere with or violate them.



PROTECT RIGHTS

shield you from rights violations by third parties, which includes stopping discrimination, violence, or denial of services.

FULFIL RIGHTS

take positive steps to make sure that rights are enjoyed by providing services like healthcare, water, housing, and education.

BE ACCOUNTABLE

people have the right to complain, protest, or go to court if their rights are violated.

PROMOTE RIGHTS

actively encourage awareness and understanding of your rights.

YOUR RIGHT TO HAVE HEALTH CARE

SECTION 27 OF THE CONSTITUTION STATES:



“Everyone has the right to have access to healthcare services, including reproductive health care.”

It further states that the state must take reasonable legislative and other measures to progressively make healthcare services available and accessible, and that no one may be refused emergency medical treatment.

KNOW YOUR RIGHTS - SPEAK UP FOR HEALTH CARE FOR ALL

No one should be denied care because of who they are or where they come from. Your right to health is protected by the Constitution.

If you are refused care, demand your rights and report it immediately.

“EVERYONE”

means all people in South Africa regardless of their nationality, whether or not they have identity documents, or what their ability to pay is.

“ACCESS”

means everyone must be allowed to use public healthcare services: no one can be turned away. However, access does not always mean services are for free.



You cannot be refused care because you do not have identity documents, are a migrant, refugee, or asylum seeker.



THE LAWS THAT PROTECT YOUR RIGHT TO HEALTH CARE:

1 The National Health Act 61 of 2003

- **Everyone** in South Africa can use **primary health care services** at clinics and community health centres.
- All **pregnant or breastfeeding women** and **children under six** have the right to free health care at any hospital or clinic.

2 The Refugees Act 130 of 1998

- **Refugees and asylum seekers** have the **same right to health care** as South African citizens. You can go to public clinics and hospitals for treatment, including HIV and other chronic care.

3 Department of Health Circular, 2007¹

- **Refugees and asylum seekers** - with or without permits - can use public health services.
- **Primary health care is free** – for hospital services, a fee may be charged based on your income. This is the same for citizens and non-citizens.

¹ The National Department of Health, 'Revenue Directive- Refugees/Asylum-Seekers with or without a Permit.

4 The Immigration Act 13 of 2002

- This law says that hospitals may check people's **legal documents**, but **only if it does not stop them from giving care**.
- You cannot be refused emergency treatment because of your documentation status.
- **Health workers should focus on providing care, not reporting patients.**
- Section 44 of the Immigration Act requires all organs of state, including health and education departments, to determine and report a person's legal status where possible. **Crucially, however, the Act also states that this may not delay or prevent the provision of any service guaranteed under the Constitution or other laws.** This safeguard ensures that immigration enforcement does not override the primary duties of service-providing departments, such as delivering healthcare or education.



Everyone in South Africa, including migrants, refugees, and asylum seekers, has the right to health care, especially at the primary and emergency levels.

Article 12 of the International Convention on Economic, Social and Cultural Rights (ICESCR) recognises “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.²

BATHO PELE PRINCIPLES FOR PUBLIC SERVICE

You have a right to:

- be treated with respect and dignity
- get clear explanations in a language you understand
- have your privacy and confidentiality protected
- give consent before treatment
- ask for an interpreter if needed
- have access to complaint mechanisms



**KNOW YOUR RIGHTS.
SPEAK UP FOR HEALTH CARE FOR EVERYONE**

² www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights

WHAT SERVICES ARE FREE AND WHICH DO I HAVE TO PAY FOR?

“**Healthcare services**” include those delivered at clinics (‘primary healthcare’) and hospitals (‘secondary’ and ‘tertiary’ healthcare).

- **Clinic Services are always free for everyone:** Immunisations, antenatal care, family planning; HIV & TB testing, treatment, chronic medication and wound care.
- **Hospital services are always free of charge for some groups of people:**
 - Pregnant or breastfeeding women
 - Children under 6
 - Unemployed people (with proof of unemployment status)
 - People living with HIV or TB who need care for their HIV or TB



Emergencies must be treated immediately without asking for upfront payment or ID.



Different groups of people must pay for hospital services depending on their income. People who earn little pay less than those who earn more.




HOSPITALS – FEES BY INCOME

(UNIFORM PATIENT FEE SCHEDULE)

Public hospitals use the Uniform Patient Fee Schedule to decide who must pay for services. People with permanent or temporary residence, refugees, asylum seekers, and undocumented migrants from SADC countries are means-tested just like South African citizens. This means the hospital will look at how much you earn – see the table below. Those from Non-SADC countries must pay full fees. **Free services remain free for everyone.**

Category	Who qualifies?	Cost	2025 Fees
H0	Unemployed, pregnant/lactating, children <6, emergencies	Free	You will need to provide evidence of a sworn affidavit you can get at a police station.
H1	Low income	Small subsidised fee	Individuals earning less than R70,000 per annum and households with an income below R100,000 per annum.
H2	Middle income	Partial cost	
H3	High income / Medical aid	Full fee	

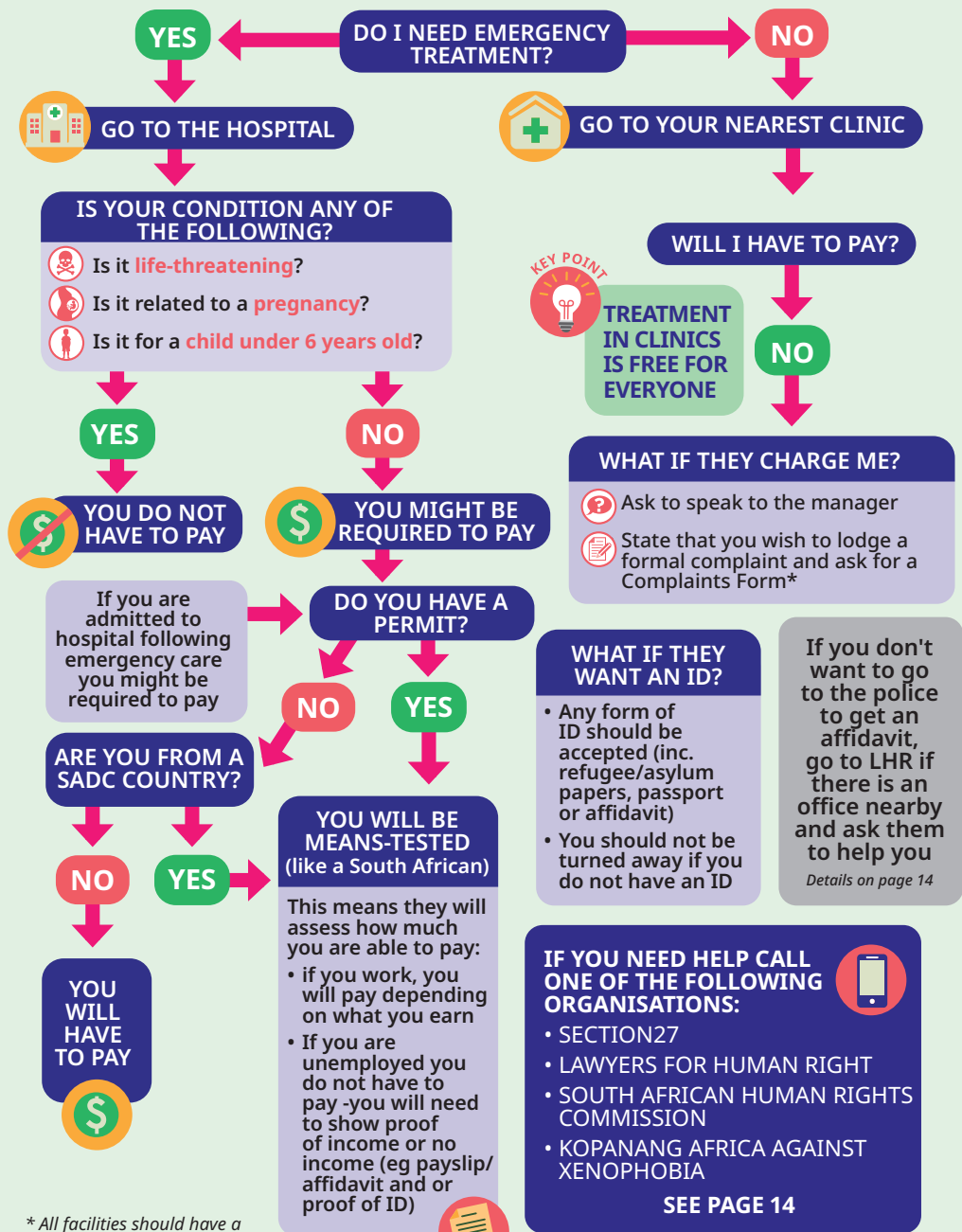
Note: these fees will change annually, so the above amount is only for 2025. You can look up these fees on the Department of Health website.³



Ask to be assessed for your category of income. No one may be turned away because they cannot afford to pay.

³ National Department of Health, 'Uniform Patient Fee Schedule', 2024. <https://www.health.gov.za/uniform-patient-fee-schedule/>

How to know what treatment you need and how to access it at a government health facility



* All facilities should have a process for making formal complaints.

Example of affidavit on page 16





UNDERSTANDING THE PUBLIC HEALTH CRISIS.

South Africa's health system faces real challenges that include underfunding, staff shortages, corruption, and infrastructure collapse. The National Department of Health recognises that the public sector is struggling to deliver the quality of care required to improve and sustain population health.³ This is for several reasons:

- **The apartheid legacy:** Deep inequality between private and public sectors, black and white health care users, and urban and rural people.
- **Poor planning:** Underfunded clinics and staff shortages.
- **Corruption:** Wasted funds, missing medicines, broken equipment.
- **Poverty & unemployment:** Makes care harder to access for everyone.

CORRUPTION AND MISMANAGEMENT

- When money, supplies, and power are abused or misused, it undermines health care for everyone. Corruption and poor management take resources away from clinics, hospitals, and patients, and lead to missing medicines, broken equipment, staff shortages, delays and denials of care.

DO MIGRANTS MAKE THE SITUATION WORSE?

- No, migrants are not the problem! Migrants make up a small fraction of total public health users.
- Statistics South Africa reports that there are nearly 2.5 million international migrants in the country, accounting for approximately 4%.⁴
- Far more people move within South Africa's borders, with millions moving from rural to urban areas in search of work and services.
- Research across Southern African countries shows that most migrants are NOT moving in search of healthcare but are typically healthy and moving for other reasons.⁵

⁴ Stats SA, Statistical Release: Mid-Year Population Estimates 2025 (Stats SA, 2025).

⁵ Lokotola CL, Mash R, Sethlare V, Shabani J, Temitope I, Baldwin-Ragaven L. Migration and primary healthcare in sub-Saharan Africa: A scoping review. *Afr J Prim Health Care Fam Med.* 2024 Jul 12;16(1).

UNDERSTANDING THE STATE OF SOUTH AFRICA'S PUBLIC HEALTH SYSTEM:

Apartheid – inequality – corruption and mismanagement

Apartheid created a racially divided health system that privileged white people while underfunding and overcrowding facilities for Black, so-called “coloured”, and Indian communities. Spending was up to ten times higher for whites, embedding deep inequalities that still affect healthcare today.

AFTER APARTHEID: INEQUALITY IN THE HEALTH SYSTEM

When apartheid ended in 1994, South Africa inherited a fragmented and unequal health system, decaying facilities in historically Black areas, and too few health professionals. Today, the private sector, serving only about 15% of people, remains well-resourced, while the public sector must care for the other 85% with limited funds. Despite reforms, the legacy of apartheid, along with corruption and mismanagement, continues to drive deep inequality in access and quality of care.⁶

BLAMING MIGRANTS HIDES THE REAL PROBLEMS

Politicians often blame migrants to distract from corruption, mismanagement, and poor planning. This fuels division instead of fixing real issues in health, housing, and jobs. Believing these false claims only helps those in power to avoid responsibility. Even without migrants, the system would still be failing, and every time leaders blame foreigners instead of tackling corruption, all South Africans lose.

WHY SOME PEOPLE LACK DOCUMENTS

Many people, including South Africans, struggle to get IDs or birth certificates. Over **250,000 late registrations** are pending, and about **12% of South Africans** lack proper documents.⁷

Without papers, people are often wrongly denied care.

6 Coovadia, Hoosen et al. 2009 “The health and health system of South Africa: historical roots of current public health challenges” The Lancet Vol 374, Issue 9692, 817 - 834

7 Tania Broughton, ‘Home Affairs Has Left a Quarter of a Million People Waiting Years for Birth Certificates’, GroundUp News, 17 June 2025



JUDGEMENTS SUPPORTING ACCESS TO HEALTH CARE AND MIGRANTS.

Case 1: SECTION27 & Others v MEC of Gauteng Department of Health & Others (Case no 22/19304)⁸

In April 2023, the Gauteng High Court overturned provincial health policies that restricted pregnant and lactating women and children under six from accessing free healthcare based on their nationality and documentation status.

The Court ordered health officials to take steps to ensure all such patients were able to access free healthcare at public hospitals and clinics.

“All pregnant women, all women who are lactating, and all children below the age of six are entitled to free health services at any public health establishment irrespective of their nationality or document status, unless:

- 1. They are members or beneficiaries of medical aid schemes; or***
- 2. They have come to South Africa for the specific purpose of obtaining healthcare.”***

(Department of Health Circular dated 25-05-2025)

⁸ <https://powerlaw.africa/2023/05/11/south-africa-high-court-orders-officials-to-protect-pregnant-women-and-young-childrens-right-to-healthcare/>

⁹ <https://www.saflii.org/za/cases/ZAGPJHC/2025/1102.html>

Case 2: Kopanang Africa Against Xenophobia and Others v Operation Dudula and Others (Case no2023/044685)⁹

Since 2022, Operation Dudula has unlawfully blocked people from clinics by demanding IDs. KAAX and others challenged this in court, and in 2025 the High Court ruled that Operation Dudula may not hinder access to healthcare or education. The court confirmed that only police or immigration officers can request documents and ordered the government to act against xenophobia and implement the 'national Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance'.

“ Operation Dudula is hereby interdicted and restrained from demanding that any private person produce her/his passport or other identity documents to demonstrate her/his right to be in the Republic. ”

- Judge L Adams

KAAX and others v Operation Dudula and others

Gauteng High Court, Case no. 2023-044685

COURT VICTORY OVER HEALTH XENOPHOBIA



On December 4th 2025 a landmark judgement handed down by the Gauteng High Court¹⁰ found that authorities failed to prevent groups from blocking patients from entering the Yeoville and Rosettenville clinics - violating their constitutional right to healthcare. The court ordered the state to ensure safe, unhindered access for everyone, remove anyone obstructing clinic entry, and deploy trained security staff. This ruling confirms that healthcare facilities must be safe spaces where dignity and equality are protected. MSF, TAC, KAAX, and SECTION27 will monitor implementation to ensure access is restored and upheld.

“ The judgment makes clear: “No unauthorised person may obstruct or hinder physical access to this clinic or the provision of healthcare services within the clinic. Any person violating this instruction will be removed from the premises and its surrounds and reported to the police.” ”

Read the
judgement here



¹⁰ <https://kaax.org.za/press-release-tac-msf-and-kaax-welcome-high-court-ruling-affirming-the-right-to-safe-and-unhindered-access-to-healthcare/>

WHERE TO GET HELP

It is important that if you are denied access to healthcare or experience other challenges, such as being unlawfully charged for treatment that you access help. See the advice below:

A

IF YOU ARE TREATED POORLY AT A HEALTH CARE FACILITY OR REFUSED TREATMENT WHEN YOU ARE IN A FACILITY FOLLOW THE STEPS BELOW

STEP 1:

Complaints should start at the healthcare facility - your first step is to ask to see the Facility Manager and to ask them to intervene. If they do not want to help you, ask them for a formal complaints form and the process for submitting. Take a photo of the form you submit and take the name, surname and position of the person you submit the form to.

STEP 2:

If you are unable to make a complaint at the facility or do not receive a satisfactory response, please contact one of the organisations listed on page 14 or 15.

B

WHEN VIGILANTE GROUPS PREVENT YOU FROM ACCESSING A HEALTH CARE FACILITY FOLLOW THE STEPS BELOW

STEP 1:

Go to the nearest police station and tell them you are being prevented from accessing the clinic/hospital. See the KAAX case on page 11.

STEP 2:

Ask the police to accompany you to the clinic and to assist.

STEP 3:

If you do not feel safe going to the police then call one of the numbers listed on page 14 or 15 and ask for support.

CONTACTS

ORGANISATION:

Lawyers for Human Rights (LHR)

Legal support for migrants & refugees

Pretoria:

Kutlwano Democracy Centre
357 Visagie Street



+27 (0)12 320 2943



text only: +27 (0)64 647 4719

Johannesburg:

4th Floor Southpoint Corner Building
87 De Korte Street, Braamfontein



+27 (0)11 339 1960



text only: +27 (0)66 076 8845

Durban:

Room S104, Diakonia Centre
20 Diakonia Avenue (formerly St. Andrews Street)



+27 (0)31 301 0531



text only: +27 (0)67 258 6020

www.lhr.org.za

ORGANISATION:

SECTION27

Legal advocacy for health & education rights

BY APPOINTMENT ONLY




+27 (0)11 356 4100

www.section27.org.za

ORGANISATION:

Kopanang Africa Against Xenophobia (KAAX)


Defend the human rights of all who live in the country, regardless of their nationality or status


 report@kaax.org.za

www.kaax.org.za

ORGANISATION:

South African Human Rights Commission

 +27 (0)11 877 3600


 complaints@sahrc.org.za


www.sahrc.org.za

ORGANISATION:

Xenowatch

To report cases of health xenophobia and violence

 +27 (0) 60 794 9882

 report@xenowatch.ac.za

www.xenowatch.ac.za

AFFIDAVIT

I, the undersigned

[FULL NAME AND SURNAME]

do hereby make oath and state that:

1. I am an adult [INSERT GENDER], citizen of [INSERT COUNTRY]. I reside at [INSERT ADDRESS]. I am [INSERT AS APPROPRIATE - A REFUGEE WITH REFUGEE PERMIT NUMBER XXX; AN ASYLUM SEEKER WITH ASYLUM SEEKERS PERMIT NUMBER XXX; UNDOCUMENTED IN SOUTH AFRICA]
2. The facts contained herein are, unless indicated by the context, within my own personal knowledge and are to the best of my knowledge and belief both true and correct.
3. I entered South Africa in [INSERT YEAR].
4. [INSERT DETAILS OF INCOME – E.G. I AM UNEMPLOYED AND HAVE NO MEANS OF SUPPORT OTHER THAN THE KINDNESS OF NEIGHBOURS; OR I AM UNEMPLOYED AND SELL SWEETS ON THE STREET. I MAKE RXX PER WEEK].
5. [INSERT INFORMATION ABOUT ANY DEPENDENTS - EG I HAVE TWO CHILDREN LIVING WITH ME WHOSE CARE I AM RESPONSIBLE FOR].
6. [INSERT IF APPROPRIATE: I AM UNABLE TO AFFORD TO PAY FOR HEALTH CARE SERVICES.]

[INSERT FULL NAME]

It is hereby certified that this declaration was signed and sworn in my presence on this the _____, at _____, the deponent having confirmed and acknowledged that the deponent knows and understands the contents of this declaration; that the deponent has no objection to taking the prescribed oath; and that the deponent considers the prescribed oath as binding on the deponent's conscience.

COMMISSIONER OF OATHS

NAME: _____

ADDRESS: _____

DESIGNATION: _____

EXAMPLE OF
WHAT SHOULD
BE INCLUDED IN
AN AFFIDAVIT.

LAWYERS FOR
HUMAN RIGHTS

SECTION 27
catalysts for social justice



Kopangang
Africa
against xenophobia



GEMMS
Gendered violence
& poor mental health
among migrants in
precarious situations
GEMMS-RESEARCH.ORG



AFRICAN CENTRE FOR
MIGRATION & SOCIETY

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