

Shri Arvind Kejriwal
Chief Minister Government of NCT Delhi
3rd Floor, A-Wing, Delhi Secretariat
New Delhi 110001

Shri Anil Baijal
Lieutenant Governor,
Delhi Chairperson, Delhi Disaster Management Authority
Block 6 Raj Niwas Marg, Civil Lines
New Delhi 110054

25 July 2020

Dear Sirs,

**Non-compliance of private hospitals and lack of enforcement of the Delhi Government Order
prescribing maximum treatment rates for COVID-19 treatment**

We, the undersigned civil society organizations and networks, are writing to you regarding flagrant non-compliance of private hospitals with the Delhi Government's Order capping treatment rates for COVID-19, and to express our concerns regarding the lack of efforts by the Delhi Government to enforce the Order.

Through Order No.52/DGHS/PH-IV/COVID-19/2020 dated 20 June 2020, the Delhi Government prescribed maximum per day rates for COVID-related treatment in private hospitals. As per the Order, the prescribed maximum rates were to be applicable for various categories of beds – isolation bed, ICU bed without ventilator, ICU bed with ventilator - subject to an upper limit of 60% of the total hospital bed capacity.

In an earlier letter by civil society organisations to you on 23 June 2020, we had pointed out various loopholes and discrepancies in the government Order which unless addressed would allow private hospitals to continue overcharging and exploiting patients. This has indeed been borne out in the past one month since the Order was passed, and several complaints have come to light regarding refusal of various hospitals to adhere to the government treatment caps.

We would like to note that the behaviour of private hospitals is no accident, but rather a direct consequence of the failure of the Delhi government to provide transparent information to the public regarding various aspects of the policy and to take measures towards enforcement, which has enabled private hospitals to violate the rules with impunity.

Some specific issues that have come to light regarding the violations of private hospitals include:

1. **Not informing patients about the government rates/obtaining false consent.** Private hospitals are not informing patients regarding the government rates at the time of admission and/or actively misleading patients about the treatment rate caps imposed by the government in order to charge them as per hospital rates. In many instances, the signature of a family member is being taken against hospital package rates by deceit without providing any information about the government rates, in order to lock the family into paying hospital rates.
2. **Not providing information about fixed rate beds available at the time of admission.** Hospitals are not providing information about the exact availability and occupancy of rate capped beds in each category of bed. Therefore, patients are often being admitted to the non-capped beds even when government fixed rate beds are available. Even in hospitals where all of COVID-19 beds are supposed to be provided as per government rates, patients have been charged at the hospital's own rates.
3. **Not applying government rates for insured patients.** Instances have come to light where private hospitals are refusing to offer government fixed package rates to patients who have private insurance coverage. Several hospitals have unilaterally instituted a policy of billing insured patients as per the agreements with TPAs. Insurance companies on the other hand are unwilling to clear claims beyond the rates fixed by the government, particularly those related to non medical expenses and consumables such as PPE where hospitals are levying exorbitant charges. Thus insured patients are unable to avail of the government rates and are being forced to incur high out of pocket expenditure, even though there is no such exclusion for insured patients in the Delhi Government policy.
4. **Hospitals taking liberties to charge high rates for twin-sharing or single rooms.** In one case, the hospital charged a patient in excess of the Delhi government rates claiming that the patient had been admitted into a twin-sharing room, even though there is no such leeway provided under the policy.
5. **Charging separately for medicines, investigations, PPE etc. which should be included within the government package rate.** Even when hospitals are supposedly billing on the basis of the government rates, they are charging patients for components of care that are included in the package rates fixed by the Delhi government Order, such as doctor's consultation fees, medicines, consumable, investigations, PPE, management of comorbidities. With regards to PPE, several hospitals are applying separate daily charges for PPE which are to the tune of more than three times the caps on PPE fixed by the Delhi Government Order.
6. **No informed consent for administering experimental therapies.** Hospitals are administering experimental drug therapies without taking informed consent of patients.
7. **False billing of patients for care that was never provided.** Hospitals are inflating bills by falsely billing patients for treatment they never received. For instance, a patient who was never

given oxygen support was billed for oxygen @Rs. 1400 per day for 9 days. In another case, the patient was billed for ICU admission even though she was in an isolation ward.

8. Differential care to patients paying hospital rates versus the government fixed rates. In order to bill patients as per the hospital's schedule rates, private hospitals are pressing patients to provide their 'consent' on the promise of better treatment. In one case, a private hospital was fraudulently charging hospital rates even though the patient was eligible for government fixed rates. When the family asked for the billing to be revised in line with the government fixed rates, the quality of care being provided to the patient deteriorated significantly and he ended up developing bed sores.

9. Detaining patients until the bill amount is settled by the family, even when the billing is in violation of Delhi government Orders.

10. Hotel rooms attached to private hospitals are not being attended by doctors or medical staff. Some private hospitals have increased their bed capacity by attaching hotel beds. There have been complaints from patients that the attached hotel beds are not manned by any medical or hospital staff and doctors are completely absent including for taking rounds, and as such patients are not receiving medical attention despite being billed at high rates.

11. Inadequate support and redressal for patients who have contacted individual officials of the Delhi government or filed formal complaints. The government has not put in place any measures to ensure enforcement and implementation of its own policy pertaining to fixed rates for COVID-19 treatment. Grievance redressal mechanisms of the government are not functional, empathetic or supportive to patients.

Annexure 1 summarises complaints that have been filed in cases of six patients. In none of the cases where government officials were appraised was any formal action taken, such as showcause notices or warnings issued to the hospital, or any investigation undertaken to check the practices of the hospital with regards to implementation of the Delhi government Order. These complaints, however, are not exhaustive or representative of the full range of transgressions which are being committed, and are only the tip of the iceberg.

The above mentioned points highlight grave violations of the Delhi government Order and of peoples' Right to Health. These have been enabled by the lack of any enforcement mechanisms or action from the Delhi government to ensure implementation of its own Order pertaining to fixed rates for COVID-19 treatment.

Therefore, we request you to urgently act on the following:

1. **Action on patient complaints/grievances.** Immediate action must be taken on complaints currently pending with the Delhi government (including those mentioned in Annexure-1). The government must conduct an enquiry and ensure that formal action is taken against hospitals in the form of a show cause notice, penalty etc.

Since the evidence indicates that the complaints by patients are only a symptom of broader violations in the hospital, the Delhi Government must conduct detailed investigations into the practices of each of the hospitals named in the complaints regarding implementation of the government Order. The government must also ensure that hospitals return the excess money they have charged from patients, in violation of the Order.

2. **Grievance Redressal Mechanism.** The government must institute a formal grievance redressal mechanism for timely redressal of formal complaints against private hospitals. The redressal mechanism must include members from civil society groups to ensure transparency.

The government must maintain a live database that is publicly available on its website and provides details of complaints filed, including date, name of hospital against whom complaint has been filed, status of the complaint and details of action taken. The database should provide details on all complaints received since the date of implementation of the Order, i.e 20 June 2020.

The government must appoint an empowered senior government official to help patients resolve various issues including refusal of hospitals to admit on government rate beds or refusal to fully comply with the fixed rates Order.

3. **Audit Committee.** The government must designate a committee, including civil society representatives, to conduct monthly audits of the treatment and bills of all private hospitals providing COVID-19 treatment.

4. **Public information on rates.** Ensure that details of the government fixed package rates for COVID-19 are displayed at a conspicuous location in private hospitals, such as the reception area, entrance etc.

We have come across an instance where a hospital has claimed the higher government rates that are permitted to NABH-accredited hospitals, even when its NABH accreditation status has lapsed. Therefore, hospitals claiming to have NABH accreditation must be asked to display accurate information regarding the accreditation status along with the duration of validity in the same area as where the rates are displayed. |

5. **Mandatory Public Reporting Requirements for Private Hospitals.** Private hospitals must mandatorily make public their data on the number of COVID-19 patients that they have treated since the Delhi government Order on fixed rates for COVID-19 treatment came into effect on 20 June 2020. The data must indicate clearly the number of patients treated under the government

fixed rates and the number of patients who received treatment under the hospital's own schedule of charges.

6. Transparency of total hospital bed capacity and government fixed rate beds. For each private hospital providing COVID-19 treatment, the Government must provide public information about the total hospital bed capacity and the number of fixed rate beds in each category (isolation bed, ICU bed without ventilator, ICU bed with ventilator). This information must be accurate in real time.

After the Order was issued, hospitals have been applying for expanding their COVID-19 beds in order to be able to cross the 60% bed threshold to be able to charge hospital rates on beds. The Delhi government has stopped sharing the permissions granted for expansion of COVID-19 beds in private hospitals. This lack of transparency has led to confusion about the availability of beds on which fixed rates are applicable.

7. Regulation of charges for hotel beds attached to hospitals & ensuring quality of care. Many private hospitals have attached hotel beds to increase their bed capacity for COVID-19 treatment. Yet, in the total number of COVID-19 beds being reported against each private hospital it is not possible to identify the number of hospital beds versus hotel beds.

The Order does not provide clarity on the applicability of the rate caps on hotel beds that have been attached by private hospitals. The government must clarify if the hotel beds come within the purview of the treatment rate caps and if not, then why.

Hospitals have increased the number of COVID beds rapidly by attaching hotel beds without ensuring adequate medical staff or care for patients. This has raised many concerns regarding the quality of care being provided. We have learned that in the hotels, doctors are rarely even taking rounds and at best taking updates virtually through video conferencing and Whatsapp.

Regular checks must be conducted to ensure that good quality medical care is being provided as per protocols to patients admitted to the hotels. If quality of care is found to be lacking, then the hotel beds must be disqualified from use.

8. Real time information on number of fixed rate beds. Real time information on the number of government fixed rate beds available at each private hospital and the occupancy for fixed rate beds must be publicly available, including through the Delhi Government's website. The availability and occupancy of fixed rate beds must be segregated by type of bed such as isolation bed, ICU bed without ventilator, ICU with ventilator etc. The information displayed on the dashboard must be accurate in real time.

9. Ensure government fixed rates apply to all ICU beds. ICU beds are in short supply and are essential to ensure life saving treatment for severe and critical patients. Thus they must be accessible and affordable to all those who need them and special precautions must be taken to protect severely affected patients from debilitating costs of treatment. In the present scenario, it is possible for hospitals that are providing COVID-19 treatment in more than 60% of their total bed

capacity to exclude ICU beds from government fixed rates. We therefore request you to bring all ICU beds under the government rate caps.

10. COVID-19 suspected patients must be eligible for the government treatment rates. The policy is silent on application of the fixed rates to COVID-19 suspected cases. Currently, the fixed rates are available only after a patient is confirmed to be COVID-19 positive. Because the treatment costs for patients during the period of time when COVID-19 is suspected but not confirmed can be substantial and such cases have emerged, even suspect COVID-19 patients must be allowed to avail of the government fixed rates until their COVID-19 status is confirmed.

11. The government must take steps towards controlling the irrational use of experimental therapies for COVID-19 and protect patients from unnecessary, high expenses. Experimental treatments for COVID-19 (such as favipiravir, remdesivir, tocilizumab, etc.), which present huge costs to patients, are excluded from the Delhi government treatment rates. These treatments are being administered rampantly and often in violation of the treatment protocols, and without the informed consent of patients.

We note that the Department of Pharmaceuticals, Ministry of Chemicals and Fertilizers has recently raised concerns about the over-prescription of experimental drugs like remdesivir and tocilizumab which has led to artificial scarcity of the drugs, causing price increase and blackmarketing.

The Delhi government must take proactive steps to put in place mechanisms to safeguard the welfare of patients and to control unnecessary expenses arising out of the irrational use of experimental drugs.

We look forward to hearing from you and are always willing to provide support to the Government's efforts towards curbing the spread and impact of COVID-19.

Sincerely,

1. All India Drug Action Network (AIDAN)
2. Anveshi Research Centre for Women's studies, Hyderabad
3. Campaign for Dignified and Affordable Healthcare
4. CEHAT Mumbai
5. Corporate Responsibility Watch India
6. Health Ethics and Law Institute of Forum for Medical Ethics Society
7. Jan Swasthya Abhiyan (JSA) - Delhi
8. Jan Swasthya Abhiyan (JSA) – Mumbai
9. Karnataka Janaarogya Chaluvali
10. Lawyers for Detainees

11. Lok Manch, Delhi
12. Mahila Kisan Adhikar Manch (MAKAAM), Delhi
13. National Alliance for Maternal Health and Human Rights (NAMHHR)
14. Naavu Bharathiyaru, Karnataka
15. National Federation of Indian Women, Delhi
16. New Trade Union Initiative
17. Partners in Change
18. Praxis
19. RAHI Foundation, New Delhi
20. SATHI, Pune

Copy to:

1. Dr. P K Mishra, Principal Secretary to Hon'ble Prime Minister, PMO
2. Shri P. K. Sinha, Principal Advisor to Hon'ble Prime Minister, PMO
3. Dr. Harsh Vardhan, Hon'ble Minister, Ministry of Health and Family Welfare (MOHFW)
4. Ms. Preeti Sudan, Secretary, MOHFW
5. Shri Rajesh Bhushan, Officer on Special Duty, Health and Family Welfare
6. Ms. Arti Ahuja, Additional Secretary (Health), MOHFW
7. Shri Lav Aggarwal, Joint Secretary, MOHFW
8. Dr. Vinod K. Paul, Member, Niti Aayog
9. Shri Vijay Kumar, Principal Secretary to Hon'ble Lt. Governor, Delhi
10. Shri Manish Sisodia, Hon'ble Deputy Chief Minister, Government of NCT of Delhi
11. Shri Vijay Kumar Dev, Chief Secretary of Delhi
12. Shri Satyendra Jain, Hon'ble Minister, Health and Family Welfare, Government of NCT of Delhi
13. Shri Shaleen Mitra, OSD to Minister of Health, Government of NCT of Delhi
14. Shri Vikram Dev Dutt, Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi
15. Ms. Padmini Singla, Secretary, Health and Family Welfare Department, Government of NCT of Delhi
16. Dr. Nutan Mundeja, Director General Health Services, Government of NCT of Delhi
17. Dr. R. N. Das, Medical Superintendent, Nursing Home Cell, Directorate of Health Services, Government of NCT of Delhi