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# Nonattendance fees versus legal protection?

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## OPINIONS

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## **When the fee for not attending appointments in the specialist health services is increased to NOK 1 500 in 2023, we may ask whether the legal protection of patients should also be increased.**

In the state budget for 2023 we find a small, but important Christmas present: the nonattendance fee is being increased to the handsome sum of NOK 1 500 (1, 2). A Christmas gift for the health services, patients and the average citizen, assuming that the fee has an impact on the intended causal chain, which has the following formula: the prospect of a fee of NOK 1 500 helps motivate more patients to show up for their appointments or call in to reschedule if they are prevented from attending, so that waiting times in the hospitals are reduced, patients receive help more quickly, and the health services are run more efficiently.

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## **Is it the dose or the medication?**

Whether it is the dose of the medication that should be upped – from NOK 1 125 last year to NOK 1 500 this year – or whether the medication should be discontinued or have its formula changed are questions that my doctoral project hopefully may help elucidate. In this project I examine the Norwegian debate from the 1990s until today, applying document analysis to study the argumentation and the underlying rationale for applying the fee. In parallel, a sample of respondents from the general population are asked about their views on the fee. In the conclusion, these analytical strands will be

gathered together in an ethical analysis of such fees. When the research results are ready, they will hopefully provide us with a better basis for discussing nonattendance fees in Norwegian hospitals.

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## What about legal protection?

The Norwegian Healthcare Investigation Board (Ukom) recently documented how the nonattendance fee is unequally applied between hospitals as well as internally within each hospital (3). The report shows that many hospitals lack procedures for collecting the fee, while those that have written procedures do not necessarily coordinate between them. Many hospital employees report on the challenges of deciding who is to be subject to the fee, and call for national guidelines. These findings must be seen in light of the wording of the regulations, which say that the fee *can* be imposed (2), and the hospitals have been instructed to apply discretionary judgement (3).

*«The nonattendance fee is unequally applied between hospitals as well as internally within each hospital»*

When a fee is demanded from a patient, nor is this an individual decision in the sense of the Public Administration Act. Thus, the patient has no formal rights to appeal against the fee to an appeals board. On the other hand, if the nonattendance fee is to function as an individual decision, the scheme will require more administrative and economic resources, as the authorities themselves have pointed out (4). Concern that the use of nonattendance fees in the health services will require a lot of administrative effort has also been voiced in other countries (5, 6). This notwithstanding, formal rights of appeal and predictable frameworks for the exercise of discretionary judgement appear to be fundamental for the patients' legal protection when faced with the nonattendance fee in the specialist health services.

*«The patient has no formal rights to appeal against the fee to an appeals board»*

While the nonattendance fee in 2009 was equal to the user fee that applies to everybody, from 2023 onwards it will amount to four times the user fee. Only patients in mental health care and addiction therapy will continue to pay a fee equal to the user fee. Although the fee is defined in terms of the user fee, it does not count towards the basis for the exemption card.

When the fees and the economic consequences of failing to attend an appointment in the specialist health services increase, there are reasons to rethink whether the patients' right to appeal should be made a reality. Clarifying the grounds on which the patients can be freed from paying the nonattendance fee could be one step in this direction.

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