

Case Reference: INT/JHARKHAND/2022/169

Dr. Sidharth Kumar Jaiswal Complainant

vs

Apollo Hospital Respondent/ Respondents

ORDER SHEET

Office Note	Order No.	Date	Order
	1.	21/09/2022	<p>We have heard the parties at length.</p> <p>The complainant got his wife treated at the CE. He is not satisfied with the treatment as according to him, he was assured, the patient would be shifted from ICU to general ward within a day or two whereas they continued her stay at ICU to escalate the cost of the treatment unnecessarily.</p> <p>The decision to keep a patient at the ICU and / or ward would solely depend upon the treating doctor and not the CE. Unless and until an appropriate forum decides on the issue it would be difficult for us to charge the CE on that count. We are not competent to do so as the law would not permit us to do the same. We are not authorized to scrutinize the treatment protocol as</p>



medical negligence is outside our domain.

The complainant would be free to approach the appropriate authority on the issue. If he is successful therein he would be at liberty to apply us afresh.

That would leave us with the question as to the billing that would be squarely within our domain.

We have carefully examined the bill. We would find blatant violation of our Advisory on many items.

Mr. Kumar being led by Mr. Sarvapriya Mukherjee, Learned Counsel, appearing for the CE, would contend, the very power of the Commission to issue Advisory and making it mandatory on the CE, is under challenge in a writ proceeding that is awaiting decision of the Hon'ble High Court at Calcutta. Hence, this question should be kept open to be decided on a later date.

We are aware of the writ proceeding. The CE approached the Hon'ble High Court at the initial stage for stay of the Advisory unsuccessfully. The Hon'ble High Court was pleased to ask them to follow the Advisory subject to the result of the writ proceeding hence, we do

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not find any impediment to apply those Advisories.

Coming into the case in hand, we find, there are few items on which the investigation cost has exceeded the maximum price fixed by Commission.

The CE is obliged to grant discount on consumable that has not been given.

Arterial Line and Central Line are routine procedures being part of the ICU facility. Those should not have been charged separately.

The details of the excess charges are set out below:-

Arterial Line Rs. 1340/-

Central Line Rs. 2920/-

CRP Rs.970x3 = Rs.2910/-

Sodium Rs. 2120/-

Potassium Rs.1050x2= Rs.2100/-

X-Ray Rs. 520/-

OT Consumable Rs.1374/-

Pharmacy Consumable Rs. 6761/-

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LFT (700) Rs.4600- Rs.700 = Rs. 3900/-

Total Rs. 23,945/-

We direct the CE to pay the said sum to the complainant with the undertaking of the complainant, in case the CE succeeds in the writ proceeding the complainant would be liable to refund the said sum to the CE. Such payment, if made by the CE, would be without prejudice to their rights and contentions in the pending writ proceeding.

That would be leave us with the sole question as to the medicine cost.

We have examined the bill. The total medicine cost is substantial and would amount to Rs. 2,34,900/-. We have examined the pharmacy bill in detail. Even if we ignore the medicine cost below Rs. 1,000/- and direct flat discount of 10 percent as per Advisory No 14, we cannot shut our eyes when we find, the high end antibiotic and other high priced drugs have been billed at much higher rates compared to the present market price. Some of the medicines have been sold at MRP where Apollo pharmacy itself is offering such medicine

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at a much lower cost as would be apparent in public domain.

One investigation (EBUS) procedure was done at the cost of Rs. 37,800/-. We have inquired from other CEs. This cost is reasonable if everything is made inclusive however, Dr. Vatia would clarify, the testing of the sample including doing biopsy, would be charged separately. We feel, in such event, the cost of EBUS procedure would need some clarification to satisfy our conscience.

Similarly, we feel, when the patient was in ICU and doctors have separately charged RCCG monitory charges at the rate of Rs. 2,630/- that too thrice a day, would need further clarification as we feel, this would unnecessarily escalate the cost of treatment.

Dr. Jaiswal would share a list of medicine returns that according to him, has not surfaced in the bill. Let him share a copy with the CE so that Dr. Bhatia can examine the same and if it is found to be correct they must refund the said sum.

Dr. Bhatia would pray for some time to offer such

explanation. Mr. Kumar would pray for three weeks time to do so.

We tentatively fix this matter on October 17, 2022 for further hearing. We would expect, the CE would submit their explanation, with a copy endorsed to the complainant, positively by October 11, 2022. The matter would be placed for further hearing only to decide on the medicine issue, EBUS procedure and RCCG charges.

It is made clear, the other issues are disposed of by the foregoing order.

Sd/-

The Hon'ble Chairperson

Sd/-

Prof. (Dr.) Sukumar Mukherjee – Member

Sd/-

Dr. Maitrayee Banerjee – Member

Sd/-

Smt Madhabi Das – Member

Authentic copy
[Signature]

Secretary
West Bengal Clinical Establishment
Regulatory Commission