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11 April 2006

Miss Denise YUE, GBS, JP
Secretary for the Civil Service
Government Secretariat
10th Floor, West Wing
Central Government Offices
Hong Kong

Dear Miss YUE,

Panel on Public Service

**Issues relating to The Ombudsman's investigation
into the Medical Fee Waiver System**

Given the public concern about a case quoted in the investigation report published by the Office of The Ombudsman on 6 April 2006 on the above subject, Hon TAM Yiu-chung, Chairman of the Panel, has directed me to invite the Administration to provide written response in respect of the issues set out in the following paragraphs.

The Chairman notes that according to paragraphs 12 to 17 of the Executive Summary of the investigation report (copy attached), a Medical Social Worker, who had spotted a mistake in the approval given by her colleague for full waiver and reported it to her supervisor, was subsequently warned by her supervisor, "with threat of disciplinary action, against causing embarrassment to the Administration". The Chairman also notes from recent media reports that according to the Social Welfare Department, the Medical Social Worker concerned was reminded by the departmental management in writing of the need to observe the general principle on conduct and discipline applicable to civil servants, i.e. the principle that civil servants must not engage in activities or behaviour which may bring into question the impartiality of the civil service or bring the service into disrepute. In this connection, the Administration is requested to provide written response in respect of the following issues:

- (a) The follow-up actions taken, or to be taken by the Civil Service Bureau in respect of the case mentioned above, and whether any disciplinary actions have been or will be taken against the civil servants concerned;

- (b) Application of the general principle on conduct and discipline mentioned above and the relevant statistics, including:
- (i) the circumstances under which individual civil servants are reminded of the need to observe the general principle mentioned above, and the sanctions for non-compliance with the principle;
 - (ii) the number of cases in the past three years in which civil servants were reminded of the need to observe the general principle mentioned above, and the sanctions/actions taken against the civil servants concerned for non-compliance with the principle; and
 - (iii) whether any measures and mechanisms are in place to prevent abusive application of the general principle mentioned above; if yes, the measures and mechanisms involved; if not, how to prevent abuses.

I should be grateful if the Administration would let me have its written response (in both Chinese and English) by **3 May 2006**. Please forward the soft copy of the paper to Ms May LEUNG at mleung@legco.gov.hk.

Please note that unless you raise objection, the paper provided will be made available to the media and public and placed in the Library of the Legislative Council. The paper may also be made available on the Web Site of the Council on the Internet.

Yours sincerely,

(Miss Salumi CHAN)
Clerk to Panel

Encl.

c.c. Hon TAM Yiu-chung, GBS, JP (Chairman)

*Issue No. 1 of Reporting Year 2006/2007
(6 April 2006)
Office of The Ombudsman, Hong Kong*



*Direct Investigation into the Medical Fee Waiver System
Administered by the Hospital Authority and
the Social Welfare Department*

The executive summary of the investigation report is at **Annex**.



Enquiries

For press enquiries, please contact Ms Kathleen CHAN, Senior External Relations Officer at 2629 0565 or by email katchan@ombudsman.gov.hk.

Office of The Ombudsman, Hong Kong
6 April 2006

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Oversight or “Cover-Up”?

12 In one case, an applicant for waiver showed MSW A his bank passbook, which contained entries of two deposits, each of \$4,275, in the preceding month. MSW A assumed his income to be \$4,275, thus coming within the income limit (i.e. within 75% of MMDHI -- \$6,000), and granted full waiver for three months on financial grounds. In fact, as shown in his passbook, the patient’s monthly income was \$8,550 (\$4,275 x 2) and way over the limit for full waiver.

13 When the waiver expired, the patient applied again. This time, MSW B spotted the mistake and reported it to district management, an Assistant District Social Welfare Officer (“ADSWO”).

14 When asked to comment on the mistake, MSW A claimed that she had taken into consideration the patient’s mental condition and approved the waiver on non-financial grounds. ADSWO endorsed the full waiver for the patient on non-financial grounds as an incentive to him for psychiatric treatment. The decision was supported by the District Social Welfare Officer (“DSWO”).

15 MSW B persisted and addressed higher authority in SWD with an indication of her intention to take the matter to a Legislative Councillor and this Office. ADSWO warned MSW B, with threat of disciplinary action, against causing embarrassment to the Administration. MSW B did not give up and emailed a Chief Social Work Officer in Headquarters, with her observations on the incident. She was advised to abide by the decision of district management.

16 ADSWO considered MSW A to have made a “professional assessment and a justified judgment”. Although she granted the waiver on financial grounds, she had taken into account the patient’s mental condition and the risk of his not attending further treatment if he had to pay.

17 SWD admitted to this Office that MSW A had overlooked the patient’s income. However, it has been a long-standing practice for MSWs to grant waiver to psychiatric patients regardless of their means, to motivate them to receive medical treatment lest they pose a threat to the community. SWD considered this practice to be covered in para. 13 of the Guidelines, that “waiver should be granted to patients with special difficulties but who fail to meet the financial criteria”.

Our Observations

(1) *File records clearly indicated that MSW A had mistaken the applicant’s income and originally approved the waiver on financial grounds. However, she was allowed to give retrospective justification, after her mistake came to light three months later, that she had approved the waiver on non-financial grounds instead.*

(2) *In allowing and endorsing retrospective justification, the senior staff in this case were clearly not following the Guidelines. The patient’s monthly household income was well over \$6,000 and 100% of the applicable MMDHI. Para. 13 of the Guidelines was about the non-financial criteria applicable to patients whose income is between 50% and 75% of MMDHI. In citing one sentence of para. 13 to justify grants of waiver regardless of income, SWD had taken its meaning out of context.*

(3) *In our view, this would be a case for the “supervisory review” cited at para. 9. However, as it happened, we find it strange that MSW B’s discovery and attempt, quite properly, to rectify should have drawn such reactions from both district management and Headquarters.*

Obliviousness to Deficiencies

18 Allegedly, in a case where a patient had defaulted \$12,000 in medical fees, an MSW was asked by accounting staff to “waive” the sum to avoid writing-off. As MSWs could grant waivers only up to \$7,000, two certificates were issued to cover the amount.

19 This suggests the possibility of granting waiver even without applications and circumventing Government accounting and financial regulations. Without verifying the veracity of the case because of the anonymity of the informant, we asked HA and SWD if such practices were possible. Both HA and SWD made blanket statements that there were adequate safeguards and control in the Guidelines to prevent abuse and emphasised that MSWs were fully conversant with the criteria and proper procedures.

20 We raised two further specific questions:

- (a) whether MSWs could grant waiver in the absence of a signed application; and
- (b) whether they could dispense with the requirement to seek approval for waiving fees over \$7,000.

21 Regarding (a), HA and SWD stated that patients emotionally disturbed, abused or suffering from psychiatric illness may be resistant to treatment and not apply for waiver for treatment. MSWs may, therefore, exercise their discretion and grant waiver to such patients even in the absence of a signed application form. Neither HA nor SWD considered this a problem. SWD again cited para. 13 of the Guidelines to justify this discretion.

22 As for (b), HA and SWD simply indicated that MSWs would seek approval under these circumstances. Later, HA advised that its accounting system will detect cases where the total sum waived exceeds \$7,000.

Our Observations

(1) *We cannot find anything in the Guidelines, in para. 13 or elsewhere, that provides for granting of waiver in the absence of application. SWD is again citing the sentence out of context to justify waivers not covered in the Guidelines.*

(2) *The case has revealed scope for malpractice in the system.*

(3) *We are concerned that both HA and SWD should have dismissed the matter so readily.*

Our Views

23 We commend Government for its commitment to provide for the truly needy and vulnerable. We firmly support the principle and philosophy that it is the community’s responsibility to look after the less fortunate members. In this context, the waiver system funded by taxpayers’ money should be properly administered to benefit only those genuinely in need. As custodians of public funds, HA and SWD must guard against misuse or abuse.