

立法會
Legislative Council

LC Paper No. CB(2)1902/05-06
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

Minutes of meeting
held on Monday, 10 April 2006 at 10:45 am
in Conference Room A of the Legislative Council Building

- Members present** : Dr Hon Fernando CHEUNG Chiu-hung (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Dr Hon YEUNG Sum
Hon LI Fung-ying, BBS, JP
Hon Albert CHAN Wai-yip
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
- Members absent** : Hon CHAN Yuen-han, JP (Deputy Chairman)
Hon Bernard CHAN, JP
Hon TAM Yiu-chung, GBS, JP
Hon Frederick FUNG Kin-kee, JP
- Members attending** : Hon Fred LI Wah-ming, JP
Dr Hon KWOK Ka-ki
Hon Ronny TONG Ka-wah, SC

Public Officers : All items
attending

Ms Salina YAN
Deputy Secretary for Health, Welfare and Food
(Elderly Services and Social Security)

Mrs Mary MA
Commissioner for Rehabilitation
Health, Welfare and Food Bureau

Miss Cherie YEUNG
Assistant Secretary for Health, Welfare and Food
(Elderly Services and Social Security) 4

Miss Nancy LAW, JP
Deputy Director of Social Welfare (Administration)

Mr CHENG Chok-man
Chief Social Security Officer (Social Security) 1
Social Welfare Department

Mr LAI Shiu-bor
Chief Social Security Officer (Social Security) 2
Social Welfare Department

Dr Daisy DAI
Senior Executive Manager (Medical Services Development)
Hospital Authority

Deputations : Item III
by invitation

Hong Kong Stoma Association

Mr YEUNG Kam-che
Vice Chairman of External Affairs

Mr NG Sze-ku
Vice Chairman of Internal Affairs

The Association of Parents of the Severely Mentally Handicapped

Ms CHENG Yee-man
Vice Chairperson

Ms HO Wai-ngan
Clerk

Hong Kong Association for Parents of Persons with Physical Disabilities

Ms NAM Suk-yee
Vice Chairman

Ms CHAN Lai-na
Member

關注傷殘津貼聯席

Ms HO Bo-ching
Executive Member

Ms TAM Yuk-fung
Executive Member

社區復康網絡橫頭磡中心

Mr KU Wing

Ms KOO Shuk-ching

器官殘障傷殘津貼關注小組

Ms WONG Siu-wan

The Parents' Association of Pre-school Handicapped Children

Ms CHENG Man-ying
Member

Ms POON Wai-har
Member

The Against Elderly Abuse of Hong Kong

Ms Kennex YUE
Chief Executive Director

Hong Kong Blind Union

Mr CHAN Kwok-kwong
Service Centre Manager

Ms SUEN Moon-wan
Parent

Alliance for Renal Patients Mutual Help Association

Ms HO Oi-ying

Ms Joey CHAN

Direction Association for the Handicapped

Mr LAW Wai-cheung
Chairman

Clerk in attendance : Ms Doris CHAN
Chief Council Secretary (2) 4

Staff in attendance : Ms Amy YU
Senior Council Secretary (2) 3

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Information paper(s) issued since the last meeting

There was no information paper issued since the last meeting.

II. Items for discussion at the next meeting

(LC Paper Nos. CB(2)1640/05-06(01) and (02))

2. Members agreed to discuss the following items at the next regular meeting to be held on 8 May 2006 at 10:45 am -

- (a) the Community Investment and Inclusion Fund; and
- (b) social welfare planning mechanism.

III. Review of the Disability Allowance under the Social Security Allowance Scheme

(LC Paper Nos. CB(2)1640/05-06(03) to (11), CB(2)1665/05-06(01) and CB(2)1709/05-06(01) to (02))

3. At the invitation of the Chairman, Deputy Secretary for Health, Welfare and Food (Elderly Services and Social Security) (DSHWF(ES&SS)) introduced the Administration's paper (LC Paper No. CB(2)1640/05-06(03)) which set out some short-term improvements to the Disability Allowance (DA) arrangements, as well as the long-term considerations involved in the comprehensive review of the DA system.

4. The Chairman invited deputations to give their views on various aspects of DA, including the eligibility criteria and the medical assessment form; the appeal mechanism; the management of overpayment cases; the rate of allowance for recipients boarding in special schools under the Education and Manpower Bureau or receiving care in medical residential institutions under the Hospital Authority (HA); and charges of Integrated Home Care Services (IHCS) for recipients of Higher Disability Allowance (HDA).

Eligibility criteria and medical assessment form

Views of deputations

Hong Kong Stoma Association

5. Mr YEUNG Kam-che presented the views of the Hong Kong Stoma Association as set out in its submission (LC Paper No. CB(2)1640/05-06(04)). He said that people with stomas were permanently disabled, despite the fact that their disabling condition was less obvious, which had often rendered it difficult for them to get DA. While he noted that the Administration had proposed to mention

visceral diseases explicitly in the Checklist for Medical Assessment (the Checklist) by adding the words “including visceral diseases” to the category “any other conditions resulting in total disablement” (Part (I)(viii)), he considered such revision inadequate to address the concerns of DA applicants suffering from visceral diseases. Instead, he proposed that –

- (a) a separate category of disability due to visceral diseases should be created in the assessment for DA eligibility; and
- (b) the vague and overly stringent criterion that an applicant suffering from a visceral disease should be considered as being in a position broadly equivalent to 100% loss of earning capacity in order to be eligible for DA should be abolished. Rather, he/she should be considered eligible for DA if his/her impairment or other medical conditions had resulted in a significant restriction or lack of ability or volition to perform activities in daily living to the extent that substantial help from others was required in any one of the four areas of activities as listed in Part II of the Checklist.

器官殘障傷殘津貼關注小組

6. Ms WONG Siu-wan introduced the submissions of 器官殘障傷殘津貼關注小組 (LC Paper Nos. CB(2)1640/05-06(09) and CB(2)1709/05-06(02)), which echoed the recommendations made by the Hong Kong Stoma Association in paragraph 5 above.

Alliance for Renal Patients Mutual Help Association

7. Ms HO Oi-ying and Ms Joey CHAN highlighted the following points in the Alliance for Renal Patients Mutual Help Association’s submission (LC Paper No. CB(2)1709/05-06(01)) tabled at the meeting –

- (a) the medical costs arising from peritoneal dialysis amounted on average to \$1,500 per month, which was a heavy financial burden for renal patients;
- (b) the fact that some renal patients needed to undergo peritoneal dialysis every six to eight hours a day had rendered it difficult, if not impossible, for them to hold down a full-time job; and
- (c) as the eligibility criteria for DA required the applicant to be in a position broadly equivalent to 100% loss of earning capacity, most

renal patients, whose loss of total earning capacity might not be apparent, were not provided with DA. At the same time, because most renal patients required the care of family members, they often lived with their families, which had made it difficult for them to get Comprehensive Social Security Assistance (CSSA) as well. The Administration should review the eligibility criteria for DA and provide renal patients with some form of financial assistance to alleviate their financial burden.

Direction Association for the Handicapped

8. Mr LAW Wai-cheung criticised that the criteria for assessing eligibility for DA lacked clarity and objectivity. He did not understand why some of his friends, who had Poliomyelitis and had received DA for many years, were suddenly considered to be no longer qualified for DA. He further said that for many people with disabilities (PWDs) who were not recipients of CSSA, DA was a source of financial assistance to support their living.

The Parents' Association of Pre-school Handicapped Children

9. Ms CHENG Man-ying and Ms POON Wai-har presented the submission of the Parents' Association of Pre-school Handicapped Children (LC Paper No. CB(2)1640/05-06(10)) tabled at the meeting.

10. Ms CHENG told the meeting that the payment of DA to her son, who was suffering from Marfan Syndrome, was ceased when he started primary school in 2000, on the ground that he had been admitted to a mainstream school. However, after she had arranged for her son to see another doctor in a different hospital, his DA application was approved in less than three months. She requested the Administration to explain this inconsistency in assessing DA applications by different doctors.

11. Ms POON said that her elder son, who had autism, was granted DA in 2001 but his application for continued payment of DA was rejected in 2003, because the doctor judged that his son's abilities would gradually enhance. On the other hand, the Government granted her an education allowance to support the whole-day kindergarten schooling of her younger son from 2002 to 2005 so that she could focus on taking care of her elder son. She did not understand why the Administration refused to grant DA to her elder son, even though it acknowledged that he required special care and attention.

12. Ms CHENG and Ms POON further pointed out that the fact that children with special learning needs had been admitted to mainstream schools did not mean

that they no longer required any special assistance. They studied in mainstream schools simply because they had to do so under the existing education system. Their parents were often unable to take up any full-time employment because of the need to take care of them. The expenses incurred in their therapeutic treatment further added to the financial burden of their families. In the light of these considerations, Ms CHENG and Ms POON hoped that children with disabilities would still qualify for DA after they had been admitted to mainstream schools.

Discussion

13. DSHWF(ES&SS) stressed that, in response to the concerns expressed by some deputations at earlier Panel meetings, the Administration had now proposed that visceral diseases be mentioned explicitly in both Parts I and II of the Checklist as well as the medical assessment form, which would serve to remind front-line doctors that people with visceral diseases could be eligible for DA if they meet the eligibility criteria. She explained that it would, however, be difficult to accede to the request of some deputations that the eligibility criterion of 100% loss of earning capacity be abolished for people suffering from visceral diseases, as visceral diseases could span over a wide spectrum in terms of types and severity. It would be difficult, if not impossible, to compile an exhaustive list of visceral diseases. It would be more appropriate, and equitable to other DA applicants, to assess the eligibility of people with visceral diseases for DA on a case-by-case basis, having regard to individual circumstances such as nature and seriousness of illness, and degree of disability. Senior Executive Manager (Medical Services Development), Hospital Authority supplemented that the degree of disability varied among DA applicants suffering from visceral diseases and front-line doctors would assess the applicants' degree of disability with reference to the guidelines in Part II of the Checklist.

14. The Chairman pointed out that a lot of DA recipients were in fact working and had not lost their earning capacity completely. He considered it contradictory and confusing to use "100% loss of earning capacity" as the overriding eligibility criterion for DA, which was non-means-tested and unrelated with the financial condition or earning capacity of the applicant. He was of the view that the eligibility criteria for DA should be based on the degree of functional disability of the applicant, rather than his total loss of earning capacity.

15. Dr YEUNG Sum said that PWDs had equal rights to participate in society as other people, and DA could help them meet the special needs arising from disability and facilitate their integration into society. Dr YEUNG and Mr Albert HO suggested that the vague and stringent criterion of 100% loss of earning capacity should be abolished. Instead, assessment of eligibility for DA should be

based on whether an applicant could perform the four areas of activities in daily living as listed in Part II of the Checklist. Mr LEE Cheuk-yan pointed out that the criterion of 100% loss of earning capacity was based on the First Schedule of the Employees' Compensation Ordinance (Cap. 282) which was quite outdated, and suggested rewriting the eligibility criteria for DA from scratch.

16. DSHWF(ES&SS) responded that while the assessment of an application had to rely on the individual medical doctor responsible for the patient's diagnosis, the current definition of "severely disabled" under the DA Scheme, as being in a position broadly equivalent to 100% loss of earning capacity according to the criteria in the First Schedule of the Employees' Compensation Ordinance, provided at least an objective standard for assessing eligibility for DA. A comprehensive review of the DA system would involve complicated issues as set out in paragraphs 5 to 13 of the Administration's paper, and it would be no easy task to work out a new definition of "severely disabled" without a reference framework. Commissioner for Rehabilitation supplemented that according to her understanding, other countries also found it difficult to compile a comprehensive list of diseases tantamount to severe disabilities.

17. Mr Albert CHAN proposed to create a new category of DA for PWDs whose level of disability was not able to meet the criterion of 100% loss of earning capacity. He also suggested that social workers, in addition to public doctors, should be engaged in assessing the applicants' eligibility for DA, as had been done in the Community Chest Rainbow Fund.

18. DSHWF(ES&SS) responded that under the CSSA Scheme, which was means-tested, there were different rates for people with different degrees of disabilities. However, no such differentiation existed under the DA Scheme, which was to provide some form of financial assistance on a non-means-tested basis for severely disabled persons. She further said the tension created by a non-means test scheme was real and should not be ignored in any review of the system.

19. Mr James TIEN said that different people might have different understanding of the definition of "severely disabled", and the Administration should strive to foster a consensus within the community on its meaning.

20. In response to Mr Ronny TONG's comment that the Administration should make available a set of clear, comprehensive and transparent guidelines on DA, DSHWF(ES&SS) said that the Checklist and other relevant guidelines on DA were open documents available on the web. Each successful DA applicant was given a package of essential information to help them understand the guidelines governing the allowance. As requested by Mr TONG, she agreed that the

Action

Admin Administration would prepare a Chinese version of the Checklist.

21. Mr Albert HO suggested that the eligibility criteria for DA be written into subsidiary legislation, so as to enhance the clarity and accessibility of the relevant guidelines. DSHWF(ES&SS) said that while the Administration could look into Mr HO's suggestion, she did not see how the change would bring about greater clarity as suggested.

22. Referring to the submission from the Hong Kong Public Doctors' Association (LC Paper No. CB(2)1665/05-06(01)), Mr Fred LI said that the Association's proposal of using a team of doctors and health professionals, instead of a single doctor, to assess the eligibility of applicants for DA was worth considering. DSHWF(ES&SS) responded that while a panel review could enhance objectivity in assessment, it would at the same time lengthen the processing time for each application. Having considered the pros and cons of the proposal, the Administration had decided to retain its current practice of conducting medical assessment by an applicant's attending doctor, who had the best knowledge of the applicant's medical conditions. However, a applicant could appeal to the Social Security Appeal Board (SSAB) if they were not satisfied with SWD's decision on their application based on the result of the medical assessment. The SSAB would then arrange for the applicant to undergo a medical re-assessment to be processed by an independent medical assessment board (MAB).

Appeal mechanism

Views of deputation

社區復康網絡橫頭磡中心

23. Ms KOO Shuk-ching told the meeting of the unacceptably long time the Administration took to process the appeal lodged by her brother against SWD's decision on refusing his continued DA payment, details of which were set out in Annex 2 to the submission from 器官殘障傷殘津貼關注小組 (LC Paper No. CB(2)1640/05-06(09)).

24. Ms KOO was dissatisfied that the result of the appeal, which was lodged in September 2005, was as yet unavailable. The payment of DA to her brother had been discontinued since the appeal was lodged. She urged the Administration to pay back the amount of DA withheld during the appeal period to her brother should his appeal be allowed.

Discussion

25. Mr Albert HO said that the Administration should set up a performance pledge in respect of the maximum processing time for appeals lodged with SSAB. He also supported Ms KOO's view that the amount of DA that had been withheld during the appeal period should be given back to the appellant if his/her appeal was successful.

26. DSHWF(ES&SS) said that the Administration was committed to expediting the appeal process. The Administration would work with HA to automate some administrative procedures with a view to reducing the time for processing appeal cases. HA would also invite more private doctors to sit on the MAB so that more MAB meetings could be held in the near future to consider appeal cases.

Cases of overpayment

Views of deputations

Hong Kong Blind Union

27. Ms SUEN Moon-wan said that it was already the third time she met with the Panel regarding her plight in having to come up with over \$160,000 to pay back the overpaid DA that SWD claimed her family owed because her daughter had attended the Ebenezer School & Home for the Visually Impaired (the Ebenezer School) as a boarder from 1992 to 2004. However, so far there was no response from the Administration.

*The Association of Parents of the Severely Mentally Handicapped
(LC Paper No. CB(2)1640/05-06(05))*

28. Ms HO Wai-ngan said that the case of Ms SUEN, who had received overpaid DA for over a decade, was a testament to the breakdown of the DA system. Families who were asked to pay back the overpaid DA had received numerous calls from SWD and had been put under great stress. She urged the Administration to investigate into the overpayment cases and issue a report thereon as soon as possible.

Discussion

29. Mr Ronny TONG and Mr Albert HO expressed doubt as to whether, from the legal point of view, the Administration could demand the recovery of overpayment from Ms SUEN, when it was yet to be determined whose responsibility it was for causing such overpayment in the first place. They added

that from the humanitarian point of view, the Administration should certainly refrain from recovering the overpaid DA from the recipients concerned or their families. Mr TONG further requested the Administration to undertake that it would not, without the consent of the recipients concerned, deduct their monthly allowance to recover the overpaid DA.

30. Deputy Director of Social Welfare (Administration) (DDSW(A)) responded that it was incumbent upon SWD to recover the overpaid DA from the recipients concerned. She explained that as a result of a data-matching exercise conducted with the Education Department, it was found out that there were some 70 cases of overpayment of HDA arising from the applicants' admission to government or subvented boarding schools. She stressed that when handling these cases, SWD staff would discuss with the recipients to agree on a reasonable repayment plan. SWD would also take into consideration the financial situation of the recipients concerned so as to ensure that the repayment arrangements would not lead to undue hardship. She also informed members that SWD had already worked out repayment arrangements with the majority of applicants for recovering the overpayments.

31. In response to Dr YEUNG Sum and Mr Albert HO's request that the Administration should release a report on the overpayment cases, DDSW(A) said that HDA cases were reviewed once every three years to establish a recipient's continued eligibility and to identify changes in circumstances that might affect the payment of allowance. During the review, SWD staff would ask the applicant whether there were any changes in circumstances, such as the applicant being admitted into a government or subvented residential institution, which might affect his/her entitlement. The applicant would also be requested to sign the review form to acknowledge that the information submitted was correct.

32. Mr Ronny TONG and Mr Albert HO doubted whether HDA recipients/their families had been clearly apprised of the eligibility criteria for HDA and the changes in circumstances which had to be reported. Mr HO added that all relevant service providers, such as SWD and government/subvented special schools, had the responsibility to inform/remind the applicants concerned that they would no longer be eligible for HDA on admission into these institutions.

33. Ms SUEN Moon-wan told members that during the past reviews conducted on her daughter's HDA, she had clearly informed SWD that her daughter was studying in the Ebenezer School. However, she had never been told by SWD that her daughter would then become ineligible for HDA. The Chairman supplemented that in fact over 90% of the students in the Ebenezer School were boarding students.

34. DDSW(A) responded that the fact that an applicant was a student in the Ebenezer School did not necessarily mean that he/she was boarding there, because there were non-boarding students as well. She emphasized that the Administration had already improved the clarity of the information provided to applicants to help them understand the basic rules governing eligibility for the allowance and their obligations.

35. Mrs Sophie LEUNG said that the Administration and the recipients concerned should try to resolve the overpayment cases in the spirit of mutual respect. She added that the Administration bore a greater responsibility for the overpayment than the recipients and should adopt a lenient and understanding attitude when handling these cases.

36. DSHWF(ES&SS) agreed that the cases should be handled with mutual respect. She also informed members that the Office of the Ombudsman was currently investigating into the overpayment cases. The Chairman said that, aside from the investigation being conducted by the Office of the Ombudsman, the Administration should also undertake a review on the overpayment cases to find out what had gone wrong in the process.

Rate of DA for recipients boarding in special schools or receiving care in medical residential institutions

Views of deputations

Hong Kong Blind Union

37. Mr CHAN Kwok-leung said that children HDA recipients boarding in special schools under the Education and Manpower Bureau should not have their monthly allowance automatically changed to Normal Disability Allowance (NDA), for the reason that these children had to return home for the weekends when the school was in session and during the summer holidays.

38. Mr CHAN further criticized the view stated in paragraph 11 of the Administration's paper that NDA for institutionalized recipients was redundant in view of their comprehensive care in subvented institutions.

The Association of Parents of the Severely Mentally Handicapped (LC Paper No. CB(2)1640/05-06(05))

39. Ms HO Wai-ngan was also dissatisfied with the view stated in paragraph 11 of the Administration's paper, which she considered groundless. She said that non-CSSA PWDs suffered from heavy financial burden and DA was hardly

sufficient for paying the high costs for medical/rehabilitative appliances and medical consumables. The requirements of the charitable funds were very stringent, resulting in low success rate. The rehabilitative services provided by the Government were also inadequate to meet the special needs of PWDs. In short, she considered that the support provided by the Government to PWDs was insufficient.

關注傷殘津貼聯席

40. Ms TAM Yuk-fung presented the submission of *關注傷殘津貼聯席* (LC Paper No. CB(2)1640/05-06(07)), which recommended the following –

- (a) the Administration should put in place a new mechanism for determining the appropriate amount of DA for children recipients who had been admitted to government/subvented special schools, having regard to the fact that these children normally stayed in these schools for only four/five days in a week and had to stay at home for a stretch of up to 90 days during the summer school break;
- (b) HDA recipients receiving care in a medical residential institution under HA continuously for up to one month should also not have their monthly allowance automatically changed to NDA. Although these recipients received care in a medical institution, their expenditure was no less than staying at home. Not only would they have to pay for their hospital bill of up to \$3,000 a month, their family members also had to incur additional transport costs to travel to the hospitals to care for them. Reducing their DA allowance by half from \$2,250 (HDA) to \$1,125 (NDA) would further worsen their financial situation; and
- (c) the Administration should allow DA recipients aged below 18 to claim reimbursement from the Administration for expenses on the purchase of essential medical/rehabilitative appliances and medical consumables, so as to relieve the heavy financial burden of their families.

Hong Kong Association for Parents of Persons with Physical Disabilities

41. Ms CHAN Lai-na presented the submission from the Hong Kong Association for Parents of Persons with Physical Disabilities (LC Paper No. CB(2)1640/05-06(06)) with the aid of a powerpoint. Ms CHAN told the meeting of the huge stress, both mental and financial, suffered by family members of PWDs. She said that children with physical disabilities often needed to be

hospitalized for a prolonged period of time, during which their parents/family members had to spend a lot of time in the hospitals to care for them given their disability. Besides, high additional expenses on items, such as hospital charges, medical consumables, transport fares to hospital by family members, would be incurred during such period of hospitalization.

42. In view of the above, the Hong Kong Association for Parents of Persons with Physical Disabilities proposed that –

- (a) no reduction should be made to the amount of DA/CSSA received by children with disabilities during their hospitalization; and
- (b) the requirement that a single parent on CSSA had to participate in the Support for Self-reliance Scheme to look for a job when his/her child with disabilities had been hospitalized for more than two months should be abolished.

The Against Elderly Abuse of Hong Kong

43. Ms Kennex YUE introduced the submission of *The Against Elderly Abuse of Hong Kong* (LC Paper No. CB(2)1640/05-06(11)). In particular, she drew to the attention of members that elderly HDA recipients had to pay higher charges for Integrated Home Care Services (IHCS) than NDA recipients. This arrangement had caused great hardship to the elderly HDA recipients.

Discussion

44. Mr Fred LI and Dr YEUNG Sum supported the view expressed by some deputations that on admission to a government or subvented boarding school, children HDA recipients should still qualify for HDA during their school breaks. Mr LI strongly requested the Administration to work out a fair mechanism for calculating the amount of DA to these children.

45. Mr LEUNG Kwok-hung said that the Administration had the responsibility to provide support to PWDs. He further said that because of budget deficit and the poor economic situation several years ago, the Administration had put up a lot of barriers in its provision of financial assistance to PWDs. He opined that the Administration should cut down on the manpower for administering the DA system and spend the resources thus saved on social welfare payments instead.

46. Due to time constraint, the Chairman requested the Administration to provide in writing its response to the views and suggestions raised by the deputations at this meeting. DSHWF(ES&SS) agreed.

Admin

47. There being no other business, the meeting ended at 1:05 pm.

Council Business Division 2
Legislative Council Secretariat
4 May 2006