

**Extract from Minutes of meeting of
Panel on Welfare Services held on 12 March 2007**

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IV. Review of the system for processing applications for Disability Allowance under the Social Security Allowance Scheme

[LC Paper Nos. CB(2)1190/06-07(03) and (04)]

5. Principal Assistant Secretary for Health, Welfare and Food (Elderly Services and Social Security) (PAS/HWF(ES&SS)) briefed members on the Administration's responses to the views and concern raised at the Panel meeting on 11 December 2006 regarding the system for processing applications for Disability Allowance (DA) under the Social Security Allowance (SSA) Scheme, which were detailed in the Administration's paper.

Appeal mechanism

6. Ms LI Fung-ying expressed concern that despite the arrangement for more private medical doctors being invited to sit on the Medical Assessment Board (MAB) and meetings were held more frequently to expedite the appeal process, the latest processing time for an average appeal case on the ground of disabilities was 5.6 months. Ms LI enquired about the concrete measures and timetable for further expediting the appeal process.

7. Deputy Director of Social Welfare (DDSW) explained that it would take some time for MAB to process the appeal cases in hand on account of the large number of appeal cases on the waiting list and the limited number of cases which could be considered by each MAB meeting. With more private medical doctors sitting on MAB, and the scheduling of meetings more frequently, the processing time for an average case had already been shortened to 5.6 months. DDSW advised that in 2006, a total of nine MAB meetings were held with each meeting handling about 30 cases.

8. Chief Social Security Officer (Social Security) 2 supplemented that MAB meetings were arranged by the Hospital Authority (HA). The frequency of meetings would depend on the number of medical doctors sitting on MAB and their availability. To expedite the processing of appeal cases, the number of medical doctors sitting on MAB had been increased from 13 in 2005-2006 to 17 in 2006-2007.

9. Mr LEE Cheuk-yan considered that the number of medical doctors sitting on MAB was far from adequate to handle the number of appeal cases in hand.

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The Administration should seek additional resources in this respect and invite more private medical doctors to sit on MAB.

10. PAS/HWF(ES&SS) stressed that the Administration had reviewed regularly the appeal arrangement having regard to the views and suggestions made by members. He envisaged that as more private medical doctors had been invited to sit on MAB, more MAB meetings could be held and the processing time for appeal cases would eventually be shortened after the backlog was cleared.

11. Ms LI Fung-ying considered that the appellant should be given an opportunity to present his/her case personally to the Social Security Appeal Board (SSAB). She was unconvinced of the Administration's justifications provided in its paper that there was no need for the appellants to appear when SSAB dealt with their appeals.

12. DDSW explained that in respect of appeal cases on the ground of disabilities, SSAB would arrange for the appellants to undergo medical assessment by an independent MAB. As SSAB would reach a decision on the basis of the medical assessment result of MAB, there was no need for the appellant to appear when SSAB considered the appeal. In addition, the processing time would be prolonged unduly if arrangements were to be made for the appellant to appear before SSAB.

13. Mr Albert HO cast doubt on the role played by SSAB in reviewing appeal cases on the ground of disabilities, given that SSAB members did not have medical expertise and would reach a decision based on the medical assessment result of MAB. Moreover, the appellants were not provided with the explanations if their appeals were unsuccessful. To enhance the transparency and equity of the appeal mechanism, Mr HO held a strong view that an appellant should have the opportunity to put forward his/her case personally to SSAB. The appellants should also be provided with written explanations of MAB's conclusion if their appeals were unsuccessful.

14. Expressing similar concern, Mr LEE Cheuk-yan said that apart from providing the appellants with the opportunity to present their cases directly to SSAB, they should be allowed to seek second opinion from other medical doctors on MAB's medical assessment results before SSAB made a decision.

15. DDSW responded that SSAB was responsible for handling all appeals against the decision of the Social Welfare Department (SWD) relating to the eligibility and payment of social security benefits. However, in respect of appeal cases on the ground of disabilities, SSAB would reach a decision on the basis of the medical assessment results of MAB. DDSW said that if a DA applicant was not satisfied with SWD's decision on his/her DA application, SSAB would arrange with HA for the applicant to undergo a medical assessment by an independent MAB. The appellant, in attending the medical assessment, would have the opportunity to put forward his/her case personally to MAB.

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This ensured that the rights of the DA applicants were adequately safeguarded. DDSW added that the Administration was consulting HA on the suggestion of providing written explanations of the MAB's conclusion to the appellants.

16. Referring to his past experience in serving as a member of MAB, Dr KWOK Ka-ki said that on account of the large number of appeal cases and the complexity of the cases involved, medical doctors sitting on MAB would occasionally find it difficult to determine the applicants' degree of disability, particularly when the duty medical doctors did not have the expertise on the types of disability being assessed by MAB. Dr KWOK pointed out that in some overseas countries, medical assessments on the degree of disability were conducted by specialists. To improve the operation of the appeal mechanism, Dr KWOK held the view that additional resources should be provided for HA to strengthen professional training and support for medical doctors sitting on MAB. Appeal cases involving similar types of disability should be grouped for each MAB meeting, and specialists from the relevant disciplines should be invited to sit on MAB where necessary to enhance the conduct of medical assessments.

17. Dr KWOK Ka-ki further said that the Administration should conduct a review of the requirement of "100% loss of earning ability" as the overriding eligibility criteria for DA. He pointed out that although some DA applicants did not satisfy the eligibility criteria for DA, they could not seek employment due to their disabilities. This had caused undue hardship on the disabled.

18. DDSW responded that given that SWD's frontline staff did not possess medical expertise for assessing the eligibility of DA applicants and processing appeal cases on the ground of disabilities, they had to rely on the medical assessment results of MAB. Nevertheless, the Administration would convey Dr KWOK Ka-ki's suggestions to HA for consideration. PAS/HWF(ES&SS) supplemented that to his knowledge, medical doctors from different disciplines would sit on MAB.

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19. Mr Albert HO asked whether SSAB had ever reached a decision which was contrary to the medical assessment results of MAB, or whether SSAB would only rubber-stamp the medical assessment results of MAB. Mr HO enquired about the number of successful appeal cases on the ground of disabilities in the past year, with a breakdown by reasons.

20. DDSW responded that when considering appeals on the ground of disabilities, SSAB would consider whether there were any inconsistencies in the medical assessments of MAB conducted at the time of application and appeal. While SSAB would usually accept the medical assessment results of MAB, there were occasions on which SSAB requested MAB to conduct a re-assessment. DDSW undertook to provide the information requested by Mr HO after the meeting. PAS/HWF(ES&SS) added that as the assessment made by MAB was considered reliable and professional, it was understandable that SSAB seldom disagreed with the medical assessment results of MAB.

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Boarding at subvented special schools or public hospitals

21. Mr LEE Cheuk-yan was of the view that the monthly payment of Higher DA (HDA) recipients should not be reduced to Normal DA (NDA) when the recipients were admitted to public hospitals as they had to pay for hospital charges and their family members had to incur additional expenses such as transport fares to hospitals during the period of hospitalisation. Similarly, the Administration should not deduct the HDA payment from recipients boarding at subvented special schools.

22. PAS/HWF(ES&SS) responded that the tuition fees of subvented special schools and charges of public hospitals had been subsidized heavily by the Government. The policy of providing NDA only to recipients receiving care in government or subvented residential institutions was meant to prevent double benefit.

23. Mr LEE Cheuk-yan considered the Administration's policy unjustified. He pointed out that DA recipients living in heavily subsidized public housing units could continue to receive HDA and were exempted from the double benefit policy.

24. Echoing similar views, the Chairman pointed out that same as DA, Old Age Allowance (OAA) was non-contributory and non-means-tested. The monthly payment to OAA recipients was not reduced if they were hospitalized at public hospitals. Moreover, OAA recipients were provided with a wide range of Government subsidized elderly services such as home help services. He could not see the rationale for providing NDA to recipients boarding at special schools or receiving care in public hospitals.

25. PAS/HWF(ES&SS) stressed that DA was a non-contributory and non-means-tested scheme. The policy of requiring DA recipients boarding at subvented special schools or being hospitalized at public hospitals to receive NDA only was meant to prevent double benefit. This should not be confused with the policy of providing different rates of OAA for the elderly at different age. The financial assistance provided through HDA was not related to the actual amount of expenditure incurred by recipients whilst staying at home. PAS/HWF(ES&SS) said that non-CSSA disabled persons with financial difficulties could apply to HA for medical fee waiver. In addition, a wide range of community support and rehabilitation services were available to meet their special needs.

26. DDSW added that the purpose of DA was to provide some form of financial assistance for the severely disabled to meet their special needs arising from disability. For disabled people who faced financial hardship, they could apply for assistance under the Comprehensive Social Security Assistance (CSSA) Scheme, which provided a safety net of last resort. DDSW further said that while elders aged 70 or above were not subject to the means test under the OAA

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Scheme, applicants aged between 65 and 69 were required to have an income and assets below the prescribed limits.

27. Dr YEUNG Sum said that the policy of providing NDA only to DA recipients boarding at subvented special schools or being hospitalized at public hospitals was outdated and contrary to the provision of equal opportunities for people with disabilities (PWDs). To keep pace with the changing circumstances and growing expectation of the community for safeguarding the rights of PWDs, the Administration should conduct a comprehensive review of the eligibility and payments of DA.

28. PAS/HWF(ES&SS) pointed out that DA was purpose-specific and should not be confused with the rehabilitation policy which aimed to help facilitate the integration of PWDs into the community. PAS/HWF(ES&SS) said that under the rehabilitation programme, a wide range of services were provided for PWDs to meet their specific needs and to facilitate them to integrate into the community. The Administration considered that there was no need to change the existing policy of DA.

29. Dr KWOK Ka-ki said that DA recipients and their family members faced great pressure and financial difficulties in their daily lives. Some of their family members could only take up part-time jobs because they had to take care of the DA recipients. A reduction of the DA allowance from HDA to NDA would further worsen their financial situation.

30. PAS/HWF(ES&SS) reiterated that other than DA, PWDs facing financial hardship could apply for assistance under the CSSA Scheme. In fact, a number of CSSA recipients were 100% disabled/required constant attendance. Unlike most overseas countries, the CSSA Scheme in Hong Kong was non-contributory and funded entirely by the Government's General Revenue. The Chairman and Dr YEUNG Sum expressed disagreement and said that non-contributory social security schemes were not uncommon in overseas countries.

31. The Chairman said that the Administration had not fully addressed areas of concern raised by members, such as enhancing the operation of the appeal mechanism, strengthening professional training and support for medical doctors sitting on MAB, providing written explanations of MAB's conclusion to the appellants, and granting HDA to recipients boarding at subvented special schools or being hospitalized at public hospitals. The Chairman considered that the Panel should follow up the above issues at a future meeting. Members agreed. To facilitate members' future discussion, the Chairman requested the Administration to provide information on the number of appeal cases processed by MAB in the past year, the number of successful appeals, the number of cases referred by SSAB to MAB for re-assessment, the number of cases on which the decision of SSAB was contrary to the medical re-assessment results of MAB, and the number of appeals which had yet to be dealt with by MAB.

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32. Mr LEE Cheuk-yan added that the Panel should follow up with the Administration on the proposal for setting a performance pledge on the maximum processing time for appeals lodged with SSAB.

33. PAS/HWF(ES&SS) said that the Administration would need some time to collate the requested information as the relevant statistics were kept manually. Miss CHAN Yuen-han said that as the subject of DA had been discussed by the Panel on a number of occasions and the requested information should be readily available, the Administration should revert to the Panel no later than May 2007. PAS/HWF(ES&SS) agreed that the Administration would revert to the Panel in May 2007.

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