

LEGCO PANEL ON WELFARE SERVICES

Preventing residential care homes for the elderly from embezzling the additional one-month Comprehensive Social Security Assistance payments of residents

Purpose

This paper briefs Members on the actions being taken by the Social Welfare Department (SWD) to prevent residential care homes for the elderly (RCHEs) from embezzling the additional one-month Comprehensive Social Security Assistance (CSSA) payments of their residents.

Provision of one-off payments for welfare recipients

2. As proposed by the Financial Secretary in his 2008-09 Budget Speech, the Government would provide one additional month of the standard rate of CSSA payment for CSSA recipients and a one-off grant of \$3,000 for recipients of Old Age Allowance (OAA). The provision is meant to share the fruits of economic prosperity with welfare recipients. Upon approval by the Finance Committee of the Legislative Council on 16 May 2008, the one-off CSSA/OAA payments were disbursed to welfare recipients on 16 June 2008. Eligible elders in RCHEs can also enjoy such benefit.

Guidelines for RCHEs on handling residents' possessions and fee-charging arrangement

3. The Licensing Office of Residential Care Homes for the Elderly (LORCHE) of SWD has provided clear guidelines for RCHEs on the handling of residents' financial matters and property in its Code of Practice for Residential Care Homes (Elderly Persons) (the Code). The Code stipulates that written consent and authorisation should be sought from the resident and his/her guardian/guarantor/family members/relatives for storing and holding possessions or property on behalf of residents by the RCHE, including Hong Kong Identity Card, medical follow-up card, bankbook, name chop, etc. Such

consent and authorisation should be properly documented. Moreover, RCHEs should not use the money or withdraw money from a resident's bank account for any purposes, including payment of home fees and other charges, unless a proper checking mechanism is established and maintained to prevent financial abuse or dispute. An updated record of possessions or property stored or held on behalf of every resident by the home should also be kept and made readily available for inspection by LORCHE at reasonable time.

4. On top of requirements in the Code, LORCHE issued a Guideline on Handling of Elderly Residents' Possessions and Collection of Fees and Charges (the Guideline) to all private RCHEs in May 2006, setting out in detail the proper fee-charging arrangement as well as the checking mechanism that RCHEs should put in place for management of residents' possessions. The Guideline was further enhanced and issued to all private RCHEs on 8 April 2008, clearly stipulating that:

- (a) RCHEs are strictly forbidden to adopt a pricing policy without specifying the actual amount of service fees, such as 'charging as much as the CSSA payment that the resident could get from the government';
- (b) the monthly home fees charged to CSSA recipients should be within their means; and
- (c) RCHEs are not allowed to draw on the long-term supplement or any of the additional standard rate payments granted to CSSA recipients for subsidising the home fees.

5. SWD had been in touch with The Elderly Services Association of Hong Kong to reiterate our stance. The Association issued a letter on 31 March 2008 to remind its member RCHEs not to use the additional CSSA payments of residents to subsidise home fees.

6. In the light of the Government's payouts of an additional one-month CSSA payment in 2008-09, LORCHE issued letters to all RCHEs again on 5 June 2008, reminding them that the provision of such payments was a one-off relief measure for CSSA recipients and should not be used for subsidising home fees. The possible sanctions and follow-up actions against those non-compliant RCHEs were also highlighted therein. Besides, inspectors of LORCHE had reminded individual RCHE operators during inspections and through telephone contacts to strictly adhere to the said requirements.

Monitoring and Enforcement

7. LORCHE has stepped up its efforts to closely monitor the compliance of RCHEs' with the requirements in handling residents' possessions and fee-charging arrangement. During inspection, inspectors of LORCHE will pay particular attention to those residents who have their bankbooks and other possessions kept by the homes, and will check with the concerned residents, their family members and/or relevant records whether the Guideline has been properly followed. Advisory or warning letters will be issued to the RCHEs concerned when irregularities are found. If the situation warrants, prosecution by virtue of the Residential Care Homes (Elderly Persons) Ordinance will be instituted. The person-in-charge of the RCHE, if convicted, is subject to a maximum fine of \$100,000 and imprisonment for two years. He/she may also be liable to a fine of \$10,000 for each day during which the offence continues. On the other hand, SWD will refer suspected cases of financial abuse or fraudulent activities, to the Police for criminal investigation and follow-up.

8. In 2007, LORCHE handled four substantiated complaints relating to RCHEs using the additional CSSA payments to subsidise home fees. LORCHE took immediate follow-up actions by requesting concerned RCHEs to return the over-charged home fees to the residents and improve the fee collection procedures, etc. Continual close monitoring was rendered on these RCHEs, and one of them was suspected to have embezzled residents' CSSA payments. The case has been reported to the police and is now under investigation. Apart from this case, LORCHE found that most RCHEs are so far in compliance with the Guideline after the disbursement of the one-off CSSA/OAA payments on 16 June 2008.

Promotion of Customers' Right

9. The Government has repeatedly disseminated the message to the public through various channels including the mass media that the RCHEs are not allowed to appropriate the one additional month of CSSA payment as home fees and the service users have the right to say no to such malpractice. As promotion of customers' rights is of significant importance in deterring financial abuse in RCHEs, SWD is now working together with the Consumer Council to prepare an article regarding how to choose a suitable RCHE which will soon be published in the "Choice" magazine. Proper management of elders' possessions and fair fee-charging arrangement are the points to be emphasised in the article. The article also advises elders and their family members to seek assistance from the Consumer Council or LORCHE if there is the need.

Way Ahead

10. Since the release of the additional CSSA and OAA payments on 16 June 2008, SWD has received no complaint on the mishandling of residents' CSSA payment by RCHEs. We will continue to stand firm on the subject, render close monitoring on RCHEs, and collaborate with other key stakeholders such as the Consumer Council and the Elderly Services Association of Hong Kong to safeguard the welfare of elderly residents.

Social Welfare Department
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