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Subcommittee to Study Issues Relating to Mainland-HKSAR Families

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 22 May 2012**

**Use of local obstetric services by Mainland women
whose spouses are Hong Kong residents**

Purpose

This paper gives an account of the past discussions by the Subcommittee to Study Issues Relating to Mainland-HKSAR Families ("the Subcommittee") on the obstetric service arrangements for Mainland women whose spouses are Hong Kong residents.

Background

2. To address the increasing use of obstetric services in Hong Kong by women from the Mainland which exerted heavy pressure on the obstetric services in the public hospitals and deprived local expectant mothers from accessing such services, the Hospital Authority ("HA") introduced an obstetric package charge for non-eligible persons ("NEPs") at a rate of \$20,000 for a stay of three days and two nights in all public hospitals on 1 September 2005.

3. To better channel demand from Mainland women for obstetric services to the private sector and to enable it to better assess the demand for obstetric services and plan service expansion, HA has implemented since 1 February 2007 revised arrangements for obstetric services for NEPs. Under the revised arrangements, all non-local women who wish to seek obstetric services in public hospitals have to make prior booking and pay for a package charge of \$39,000, which covers one antenatal check in specialist out-patient clinic, the delivery and the first three days and two nights stay for the delivery. For cases of delivery by emergency admission without making the prior booking, the charge would be \$48,000.

4. On 8 April 2011, HA announced that the booking for obstetric services for NEPs in HA hospitals was suspended from that day until end of December 2011.

Past discussions

5. The views and concerns expressed by members and deputations at various meetings of the Subcommittee relating to the obstetric service arrangements for Mainland women whose spouses were Hong Kong residents as well as the Administration's responses are set out below.

Government's policy on obstetric services

6. According to the Administration, the objective of its policy on obstetric services was to ensure proper and adequate obstetric services to Hong Kong residents given the finite public resources. In 2007, there were 27 574 live births born in Hong Kong to Mainland women, of whom 18 816 were born to Mainland women whose spouses were not Hong Kong residents. The corresponding figures in 2011 were 43 982 and 35 736, whereas the total number of live births born in Hong Kong increased from 70 895 in 2007 to 95 418 in 2011. The numbers of Mainland women giving birth in public hospitals and in Hong Kong overall in recent years are in **Appendices I and II**.

7. Members were advised that in the light of the upward trend for use of public obstetric services by Hong Kong pregnant women, there was a need to limit the number of NEPs coming to Hong Kong to give births at a level that could be supported by the public healthcare system, and to ensure that local pregnant women were given proper obstetric services and priority to use such services.

8. Members generally held the view that children born to Mainland mothers and fathered by Hong Kong residents were in effect members of Hong Kong families. The policy on obstetric services was contrary to the population policy of encouraging births, and was detrimental to family unity and social integration. These Mainland women should be entitled to use subsidised obstetric services. Members requested the Administration to convey their views to the Steering Committee on Population Policy and the Family Council for consideration and follow-up discussion on the policy of obstetric services and the impact of the policy on family reunion. As the use of subsidised public benefits was related to the population policy, members were strongly of the view that the Chief Secretary for Administration should attend future meeting(s) of the Subcommittee when the subject was discussed again. The Administration responded that the Steering Committee had been kept informed of the deliberations of the Subcommittee on the matter.

9. At its meeting on 19 January 2010, the Subcommittee was advised that the Steering Committee on Population Policy had thoroughly considered the views of the Subcommittee, the Family Council and the Food and Health Bureau ("FHB") on the issue regarding obstetric service arrangements for NEPs in public hospitals, in particular arrangements for Mainland women whose spouses were Hong Kong residents. From the population policy angle, the Steering Committee considered that even if Mainland women whose spouses were Hong Kong residents were entitled to the subsidised rates as local women in using obstetric service arrangements in public hospitals, its impact on the Hong Kong population would be limited. Having regard to the policy objectives of the obstetric service arrangements and the read-cross implications on other heavily subsidised healthcare services if there was a change to the definition of eligible persons ("EPs") for public healthcare services, the Steering Committee considered that the existing obstetric service charge arrangements for NEPs should be maintained.

10. Members were also advised that the Family Council noted the views of the Subcommittee on the obstetric service arrangements of HA for non-Hong Kong resident women expressed at its meeting in September 2009. The Family Council had deliberated on the existing obstetric service charge arrangements for non-local resident women from the family angle. Taking into account the need to balance consideration of a multitude of factors, it concluded that the obstetric service charge arrangements were effective and no review was considered necessary at this stage.

11. While noting that the Family Council had deliberated on the matter, some members took the view that the eligibility for using subsidised obstetric services in public hospitals should be further considered on a household basis by the Family Council. The Administration advised members that the Family Council had deliberated on the matter from the family angle and concluded that no review was considered necessary at this stage. Nonetheless, the Administration would convey members' views to the Family Council for consideration.

12. In the 2010-2011 Policy Address, the Chief Executive announced that he had asked the Steering Committee on Population Policy to focus its study on two topics, which included studying in detail the ramifications of children born in Hong Kong to Mainland women returning to Hong Kong to study and live. The topic was discussed at the special meeting of the House Committee on 10 December 2010. Members were advised that since the topic covered a wide range of complex issues, the Administration envisaged that certain areas would require more time for in-depth study and long term planning. The Steering Committee aimed at working out initial proposals in about a year's time.

Obstetric service charge for NEPs whose spouses were Hong Kong residents

13. Most members considered that a two-tier structure should be adopted for the NEP obstetric package charges for Mainland spouses of Hong Kong residents and those NEPs with no marital ties in Hong Kong. At its meeting on 28 July 2009, the Subcommittee passed a motion requesting the Government to assess the impact on the capacity of public medical services in Hong Kong and the population policy if Mainland spouses of Hong Kong residents were given parity treatment with local women in using obstetric services.

14. The Subcommittee also agreed to invite views from the Equal Opportunities Commission ("EOC") on whether applying the same obstetric service package charges for NEPs whose spouses were Hong Kong residents and those with no marital ties in Hong Kong constituted an unfair treatment to the former. EOC advised, among others, that based on the available information, the distinction between NEPs whose spouses were Hong Kong residents and NEPs whose spouses were not Hong Kong residents did not involve the anti-discrimination ordinances.

15. At the Subcommittee meeting on 19 January 2010, the Administration pointed out that the service capacity in the public hospitals was under considerable pressure. The annual delivery capacity in HA was about 42 000, which had been fully utilised in the past two years. The service capacity had been stretched to its limit during peak season and the booking for obstetric services for NEPs in HA hospitals was suspended from September to December in 2008 and then from October to December in 2009 to ensure that local women would receive adequate obstetric services. If those NEPs with Hong Kong resident husbands were to be charged the EP rate for obstetric services, the Administration expected a substantial increase in the number of such NEPs seeking to deliver in the public hospitals, causing enormous pressure on the service capacity.

16. The Administration advised members that the definition of EPs was adopted in 2003 in the light of the recommendations of the Task Force on Population Policy concerning the eligibility for major benefits subsidised by public funds, i.e. the seven-year residence requirements for subsidised services. The Administration further informed members that FHB had made an assessment on the subject in the light of the deliberations of the Subcommittee. Taking into account FHB's policy objectives of the obstetric service charge arrangements, the read-across implications on other heavily subsidised public services, and the need to ensure rational use of the finite public resources, the Administration considered on balance that the existing obstetric service charge arrangements for NEPs remained appropriate.

17. Some members remained of the view that NEPs whose spouses were Hong Kong residents should not be treated on equal footing with those NEPs with no marital ties in Hong Kong.

18. Some members were concerned that Mainland spouses of civil servants were entitled to the same subsidised rates as local women in using obstetric services in public hospitals, but not other Mainland spouses of Hong Kong residents. The Administration explained that civil servants' Mainland spouses were eligible for subsidised obstetric services as part of the civil service medical benefits.

HA's decision to stop accepting booking for obstetric services from NEPs

19. Members expressed grave concern that some 80 Mainland pregnant women with Hong Kong resident husbands were unable to secure booking for local obstetric services following HA's announcement on 8 April 2011 that public hospitals would stop accepting booking for obstetric services from non-local women till the end of 2011. Having regard to the fact that the number of live births born to Mainland women and fathered by Hong Kong residents was some 6 000 in 2010, members considered that such demand for local obstetric services could be absorbed by public hospitals. Members strongly urged the Administration and HA to review the arrangement of not accepting booking from Mainland women with Hong Kong resident husbands and consider introducing an extra tier for the obstetric package service charges for Mainland spouses of Hong Kong residents.

20. To relieve the pressure on the capacity of obstetric services in public hospitals and to ensure sufficient places for local pregnant women, a suggestion was made that the Administration should consider purchasing obstetric service places from private hospitals to increase the annual delivery capacity to meet the full demand for the service.

21. According to the Administration, the Government was very concerned about the ongoing surge of the number of Mainland women giving birth in Hong Kong in recent years because of the strain on the overall healthcare system and local obstetrics and neonatal services. FHB would collect more information about the operation of obstetric services, and line up further discussion with the public and the private sectors with a view to jointly exploring every possible means to tackle the problem. The Administration stressed that from the population policy angle, the Steering Committee on Population Policy considered that all Mainland women with Hong Kong husbands should be treated no differently from other NEPs. In the Administration's view, its existing obstetric arrangements were in accordance with the recommendation of the Steering Committee and such arrangements should be maintained.

Measures to control the use of obstetric service by non-local women

22. Members noted that the Administration introduced measures to control the use of obstetric services by non-local women in June 2011. Non-local pregnant women who intended to have deliveries in private hospitals in Hong Kong were required to undergo antenatal checkups by obstetricians in Hong Kong to determine if they were suitable to give birth in Hong Kong. The Hong Kong College of Obstetricians and Gynaecologists issued professional guidelines on the projection of high-risk pregnancy in September 2011. The Department of Health also standardized the delivery booking certificates of public and private hospitals to facilitate the checking of non-local women at the border control points.

23. Members noted with concern that the total number of deliveries by non-local women at public hospitals via the accident and emergency departments had been increasing since April 2011 and reached 205 in November 2011. Members noted from the Administration that about 25% of such cases in January to November 2011 involved non-local women with Hong Kong spouses.

24. Members took a strong view that there was a need to differentiate the resident status of spouses of non-local women, so as to set aside separate obstetric services for pregnant Mainland women with Hong Kong husbands. The impact on the overall capacity of the obstetric services would be minimal having regard to the number of deliveries which was not particularly high. Members also called on a policy change on the eligibility for seeking access to the public healthcare services by non-local women whose spouses were Hong Kong residents.

25. The Administration advised that the eligibility to use the local obstetric services under the existing arrangements followed the recommendation of the Report of the Task Force on Population Policy released in 2003. The highly subsidized healthcare services were provided to EPs on an individual basis. Moreover, there was the need to ensure rational use of the finite public resources. The Administration considered the existing obstetric service arrangements for non-local women appropriate, and it would closely monitor the new measures to control the use of obstetric service by non-local women.

26. At its meeting on 13 December 2011, the Subcommittee was advised that the quota of delivery by non-local women in 2013 will be determined after discussion among the Government, HA and the private hospitals in the first quarter of 2012. The Government subsequently announced in April 2012 that private hospitals would stop accepting bookings for obstetric services in 2013 from non-local pregnant women.

Refund arrangement for unused obstetric services

27. Concern was raised as to whether the Administration should review the refund arrangements for unused obstetric services and provide a pro-rata refund

according to the notification period.

28. The Administration pointed out that HA implemented a refund policy starting from October 2007 under which if a booked case in a public hospital could not take place in unfortunate circumstances such as miscarriage, a partial refund of not more than \$20,000 would be made. According to the Administration, the amount was set at no more than \$20,000 to serve as a disincentive for NEPs to use public obstetric services, as well as to cover the additional costs incurred by HA in the implementation of the new obstetric service arrangement, which included the cost of operating the booking arrangement and additional manpower cost for providing service.

29. The Subcommittee was subsequently advised that HA had decided to revise the amount of refund for cases involving miscarriage, termination of pregnancy and still birth from \$20,000 to \$39,000 in mid-July 2010, and the refund would be subject to deduction of those charges for the hospital services which the patient had received for the same pregnancy. HA would also consider refund applications for the obstetric services utilised from 1 February 2007 onwards.

30. A suggestion was made to extend the refund arrangement for booked cases to cases involving premature deliveries in the Mainland given that the Mainland mothers had not used the obstetric services in HA hospitals at all. Consideration should be given to making partial refund of the package charge for these cases. Members were advised that HA had fully deliberated the refund arrangement for obstetric service package charge and decided to revise the amount of refund for cases involving miscarriage, termination of pregnancy or still birth having regard to the fact that the loss of baby in these cases was a very unfortunate event for the family concerned. However, the nature of premature delivery was different from such cases.

Fee waiver

31. Concern was also raised as to whether the Administration should review the waiver mechanism for medical fees and charges within HA in the light of the court judgment on the judicial review of the obstetric service package charge for NEPs.

32. According to the Administration, the obstetric service package charges for NEPs in public hospitals had been challenged in two applications for judicial review. In the first application, the applicants challenged, among others, the Government's policy to exclude non-Hong Kong resident spouses of Hong Kong residents from the definition of EPs and decision of HA to revise the obstetric service package charges for NEPs since 1 February 2007. The application was dismissed by the Court of First Instance in the judgment handed down in December 2008. The applicants lodged an appeal and the hearing before the Court of Appeal took place in March 2010. On 10 May 2010, the Court of Appeal rejected the challenges in the application for judicial review. The second application involved a similar challenge to the exclusion of the applicant from subsidised obstetric services. The Court dismissed the application before the hearing.

33. The Administration explained that under the existing waiver mechanism within HA, patients who had financial difficulty in paying for the medical fees and charges in HA might apply for waiver of the relevant fees and charges. To ensure rational use of limited public resources, normally there was no fee waiver for NEP patients for HA services, including obstetric services. Waiver of medical fees and charges for NEP patients would be granted under exceptional circumstances. In the above court case, the court did not rule on the waiver mechanism, but it requested HA to reconsider the application for fee waiver and fee reduction from the applicant of the case. The above policy would continue to apply to all HA services including obstetric services.

Relevant papers

34. A list of the relevant papers on the LegCo website is in **Appendix III**.

Number of deliveries in Public Hospitals of Hospital Authority

	Total number of deliveries	Deliveries by Eligible Persons	Deliveries by Non-eligible Persons^{Note} (deliveries by NEP women whose spouses are Hong Kong residents)
2002	36,909	28,709	8,200 (7,298)
2003	35,259	26,498	8,761 (7,347)
2004	37,335	26,414	10,921(8,203)
2005	40,916	27,090	13,826 (7,616)
2006	40,063	28,118	11,945 (5,149)
2007	39,183	30,556	8,627 (3,817)
2008	41,031	30,586	10,445 (3,764)
2009	40,575	30,525	10,050 (3,448)
2010	42,606	31,911	10,695 (3,581)

Note:

NEP patients are not obliged to disclose the resident status of their spouses when using HA's service. The figures provided above are based on the information available in HA.

Source: Hospital Authority

Number of live births born in Hong Kong

Year	Number of live births (1) (2)	Live births to local women (2)	Number of live births born in Hong Kong (HK) to Mainland women:			
			Whose spouses are HK Permanent Residents	Whose spouses are not HK Permanent Residents(3)	Others (4)	Sub-total
2000	54 134	45 961	7 464	709	–	8 173
2001	48 219	40 409	7 190	620	–	7 810
2002	48 209	39 703	7 256	1 250	–	8 506
2003	46 965	36 837	7 962	2 070	96	10 128
2004	49 796	36 587	8 896	4 102	211	13 209
2005	57 098	37 560	9 879	9 273	386	19 538
2006	65 626	39 494	9 438	16 044	650	26 132
2007	70 875	43 301	7 989	18 816	769	27 574
2008	78 822	45 257	7 228	25 269	1 068	33 565
2009	82 095	44 842	6 213	29 766	1 274	37 253
2010	88 584	47 936	6 169	32 653	1 826	40 648
2011	95 418#	51 436	6 110	35 736	2 136	43 982

- Notes :
- (1) The figures refer to the total number of live births born in HK in the reference period counted by the occurrence time of the events (i.e. births actually taking place in that reference period).
 - (2) The figures include a very small number of live births born in HK to foreign women (e.g. Filipinos), which are minor compared to live births born in HK to Mainland women.
 - (3) Include HK Non-permanent Residents (Persons from the Mainland having resided in HK for less than 7 years being grouped in this category) and non-Hong Kong residents.
 - (4) Mainland mothers chose not to provide the father's residential status during birth registration.
 - Not available.
- # Provisional figures.

Source: Census & Statistics Department

Appendix III

Relevant papers on use of local obstetric services by Mainland women whose spouses are Hong Kong residents

Committee	Date of meeting	Paper
Panel on Health Services	8 January 2007 (Item V)	Agenda Minutes
Legislative Council	10 January 2007	Official Record of Proceedings Pages 163 - 243 (Motion)
Panel on Health Services	16 April 2007 (Item I)	Agenda Minutes
Panel on Health Services	30 April 2007 (Item I)	Agenda Minutes
Panel on Security	8 May 2007 (Item IV)	Agenda Minutes
Panel on Health Services	18 February 2008 (Item IV)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	29 June 2009 (Item I)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	28 July 2009 (Item I)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	19 January 2010 (Item I)	Agenda Minutes

Committee	Date of meeting	Paper
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	13 July 2010 (Item I)	Agenda Minutes
House Committee (Special meeting)	10 December 2010 (Item I)	Agenda Minutes
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	28 April 2011 (Item I)	Agenda IN22/10-11
Subcommittee to Study Issues Relating to Mainland-HKSAR Families	13 December 2011 (Item I)	Agenda

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