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**Subcommittee to Study Issues Relating to Mainland-HKSAR Families**

**Paper prepared by the Legislative Council Secretariat  
for the meeting on 29 June 2009**

**Obstetric service arrangements for women from the Mainland**

**Purpose**

This paper gives an account of the past discussions by the Panel on Health Services (the HS Panel) and the Panel on Security (the Security Panel) on the implementation of the new obstetric service arrangements and complementary immigration measures.

**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, the NEP Obstetric Package Charge was revised to \$39,000 for persons with a booking and \$48,000 for those without one on 1 February 2007. A central booking system for obstetric services was also put into operation in all public hospitals by HA on the same date to enable it to better assess the demand for obstetric services and plan service expansion.

**Past discussions**

4. The HS Panel held discussions with the Administration on 8 January 2007, 16 and 30 April 2007 and 18 February 2008 on the new obstetric service arrangements for

NEPs, and received views from 10 deputations at the meeting on 30 April 2007. The Security Panel also discussed the implementation of the new obstetric service arrangements and complementary immigration measures at the meeting on 8 May 2007. Major views/concerns expressed by members and the Administration's responses are set out in the ensuing paragraphs.

#### Obstetric service charge for NEPs whose spouses are Hong Kong residents

5. In the course of the discussions by the HS Panel, some members were of the view that HA should adopt a two-tier structure for the NEP Obstetric Package Charge by applying its revised rate of \$39,000/\$48,000 to NEPs with no marital ties in Hong Kong while allowing NEPs whose spouses were Hong Kong residents to pay the old rate of \$20,000. They pointed out that many NEP pregnant women whose spouses were Hong Kong residents were forced to give birth in the Mainland due to lack of financial means, which was detrimental to family unity and social integration. Under the existing immigration policy, babies fathered by Hong Kong residents but born in the Mainland had to apply under the One Way Permit (OWP) Scheme to settle in Hong Kong, whereas Chinese citizens born in Hong Kong had right of abode in Hong Kong regardless of the status of their parents according to Article 24(2)(1) of the Basic Law.

6. The Administration indicated that it had no intention to introduce an extra tier in the NEP Obstetric Package Charge for NEP whose spouses were residents of Hong Kong. Under the population policy, eligibility for subsidised public benefits was restricted to holders of Hong Kong Identity Card or children under the age of 11 who were Hong Kong residents. Persons not holding a Hong Kong Identity Card, i.e. NEPs, including Two Way Permit (TWP) holders who were spouses of Hong Kong residents, might access public medical services in Hong Kong by paying the specified charges applicable to them. Whilst recognising that marriages between residents of Hong Kong and the Mainland would become increasingly prevalent, the onus should be on those couples who engaged in cross-boundary marriages to make appropriate plans to meet their medical needs.

7. Members considered the Administration's explanation unacceptable for the following reasons. First, the rate of \$20,000 was set on a cost recovery basis. Second, NEPs whose spouses were Hong Kong residents were in effect members of Hong Kong families. Although these NEPs had yet to become residents of Hong Kong under the OWP Scheme, many held TWPs and stayed in Hong Kong throughout the year except for days when they had to return to the Mainland to renew their visit endorsement.

8. The HS Panel passed a motion on 16 April 2007 urging the Administration to allow NEPs whose spouses were Hong Kong residents to pay the old rate of \$20,000, and requested the Administration to provide a response by June 2007. The Administration advised that it needed more time to monitor the effects of the new obstetric service arrangements prior to making any changes to the arrangements.

### Eligibility for heavily-subsidised social services

9. Some members of the HS Panel pointed out that the existing population policy on excluding NEPs whose spouses were Hong Kong residents from getting subsidised social services should be reviewed. They suggested and members agreed that the HS Panel should line up a joint meeting with other relevant Panels to discuss with the Chief Secretary for Administration (CS) the eligibility for public benefits by NEPs whose spouses were Hong Kong residents.

10. CS's Office advised that as CS had already briefed and exchanged views with members of the House Committee at the special meeting held on 12 October 2007 on the priority areas being pursued by the Steering Committee on Population Policy, there was nothing new that CS could apprise Panel members at that stage on the population policy concerning eligibility for public benefits by NEPs whose spouses were Hong Kong residents. The Steering Committee, chaired by CS, comprised the Financial Secretary, Secretary for Education, Secretary for Security, Secretary for Food and Health, Secretary for Home Affairs, Secretary for Labour and Welfare, Secretary for Financial Services and the Treasury, and directorates of the Departments concerned as core members.

### Refund of the NEP Obstetric Package Charge

11. A suggestion was made for fees paid at the time of booking to be refunded to the person making the booking, if the delivery did not take place eventually for reasons such as a miscarriage or unexpected matters preventing the NEPs concerned from coming to Hong Kong to give birth.

12. HA advised that the rationale of making the fees paid for the NEP Obstetric Package Charge non-refundable was to make it a serious commitment for the person making the booking, which by itself, had incurred certain necessary costs (e.g. reservation of beds and delivery suites etc.), not to mention the opportunity costs involved in case the limited resources were not fully utilised. This no-refund policy also helped to deter double booking which was not uncommon before the introduction of the revised NEP Obstetric Package Charge. Nevertheless, if a booked case in a public hospital could not take place in unfortunate circumstances such as a miscarriage, HA would offset the medical fees so incurred, such as if the patient had made use of the associated obstetric and gynaecology services in the public hospital, against the amount already paid for under the NEP Obstetric Package Charge.

13. Having considered the actual situation after implementation of the new obstetric services booking arrangements, HA implemented the following refund policy starting from 29 October 2007 after publication in the Gazette -

- (a) refund would be provided under two categories of special circumstances. The first category is the occurrence of miscarriage, termination of

pregnancy or still birth. The second category was a change of status of the pregnant women from NEP to Eligible Person (EP) during the period between payment of fees for booking and delivery;

- (b) for NEPs who had paid \$39,000 for the obstetric package charges in public hospitals, partial refund of \$20,000 would be made for justified cases fulfilling the criteria in the first category, after deducting those charges for the HA hospital services they had received for the concerned pregnancy. Under the second category, pregnant women with a change of status from NEP to EP during the period between payment of the package fee and delivery would be fully refunded for the obstetric package charges, after deducting those charges for the HA hospital services they had received for the concerned pregnancy; and
- (c) those NEPs who had paid on or after 1 February 2007 and fulfilled the relevant criteria could apply for a refund.

#### Implementation of complementary measures

14. In its paper for the Security Panel in February 2007, the Administration advised that to complement the new obstetric services, the Immigration Department (ImmD) had stepped up arrival checking of all visitors who were at an advanced stage of pregnancy, i.e. women who had been pregnant for seven months (28 weeks) or above. Those visitors whose purpose of visit was believed to be to give birth in Hong Kong were required to produce proof of booking arrangements with a local hospital. Any visitor who could not meet the immigration requirements concerned could be denied entry.

15. At the meeting of the Security Panel on 8 May 2007, members were advised that frontline staff of ImmD had by and large experienced not much difficulties in stepping up arrival checking of pregnant visitors, most of whom were well aware of the new obstetric service arrangements. Members were also advised that upon the implementation of enhanced arrival checking, the number of extension of stay applications by pregnant visitors had dropped.

#### Effectiveness of the new obstetric service arrangements

16. At the meeting on 18 February 2008, the HS Panel was updated on the implementation of the new obstetric service arrangements and complementary immigration measures. Members were advised that the booking systems for obstetric services in both public and private hospitals had been working smoothly since they were launched in February 2007, specifically –

- (a) apart from ensuring the provision of priority services to local women, the booking system helped to provide up-to-date information about the

booking status of obstetric services in all public hospitals;

- (b) the increase in service package charge coupled with the implementation of the booking system and immigration measures had limited the number of births by non-local women in Hong Kong to a level that could be supported by the healthcare system;
- (c) the number of non-booked obstetric cases by non-local pregnant women in public hospitals had dropped significantly; and
- (d) the overall settlement rate for obstetric services by non-local pregnant women had improved.

17. As regards the refund arrangements which took effect from 29 October 2007, as at 31 December 2007, HA had received a total of 108 refund applications and approved 95 of them.

18. Some members remained of the view that Mainland spouses of Hong Kong residents should be excluded from the NEP Obstetric Service Package Charge for the following reasons –

- (a) it was detrimental to family unity and social integration and contrary to the Government's call for closer integration with the Mainland and for each married couple in Hong Kong to have three children to improve the low fertility rate, as many Mainlanders whose spouses were Hong Kong residents were forced to return to the Mainland to give birth due to lack of means;
- (b) unlike children who could immediately settle in Hong Kong if they were born in Hong Kong regardless of whether one of their parents was Hong Kong resident, children born in the Mainland to Mainlanders whose spouses were Hong Kong residents had to wait for their turn for OWPs to settle in Hong Kong thereby making it more difficult for them to adapt to Hong Kong's education system;
- (c) the new obstetric service arrangements were discriminatory against Mainlanders whose spouses were Hong Kong residents in that Mainlanders had to wait up to five years under the OWP Scheme to settle in Hong Kong and become eligible for heavily subsidised rates for public medical services, whereas this was not the case for other non-local spouses of Hong Kong residents; and
- (d) Mainland women whose spouses were Hong Kong residents were not only members of Hong Kong families but also members of the community as they were able to stay in Hong Kong virtually year-round

on the strength of the multiple visit endorsement under TWP while they were waiting for their turn for OWPs to settle in Hong Kong.

### **Related information**

19. At the Council meeting on 10 January 2007, Dr Hon Joseph LEE moved a motion urging the Government to expeditiously formulate feasible and effective policies and measures to re-allocate public resources to resolve the problem brought about by non-local pregnant women giving birth in Hong Kong. Dr Hon Kwok Ka-ki and Hon Andrew CHENG moved amendments to the motion. The motion as amended by the two Members was carried.

### **Relevant papers**

20. Members are invited to access the Legislative Council's website (<http://www.legco.gov.hk>) for details of the relevant papers and minutes of the meetings. A list of relevant papers in the **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
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## Relevant Papers/Documents

<u>Meeting</u>	<u>Meeting Date</u>	<u>Papers/Motion</u>
Legislative Council	10 January 2007	Proceedings of the motion debate on non-local pregnant women giving birth in Hong Kong held on 10 January 2007
Panel on Health Services	8 January 2007	Administration's paper LC Paper No. CB(2)761/06-07 (03)  Minutes of meeting LC Paper No. CB(2)1043/06-07
	16 April 2007	Administration's paper LC Paper No. CB(2)1552/06-07 (01)  Minutes of meeting LC Paper No. CB(2)2080/06-07
	30 April 2007	Minutes of meeting LC Paper No. CB(2)2410/06-07
	18 February 2008	Administration's paper LC Paper No. CB(2)1050/07-08 (03)  Minutes of meeting LC Paper No. CB(2)1264/07-08
Panel on Security	8 May 2007	Administration's paper LC Paper Nos. CB(2)1130/06-07(01) and CB(2)1736/06-07 (04)  Minutes of meeting LC Paper No. CB(2)2285/06-07