

立法會

Legislative Council

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Paper for the House Committee meeting on 21 March 2003

Report of the Subcommittee to study the proposed resolutions under section 48A of the Employees' Compensation Ordinance and section 40 of the Pneumoconiosis (Compensation) Ordinance

Purpose

This paper reports on the deliberations of the Subcommittee formed to study two proposed resolutions to be made under section 48A of the Employees' Compensation Ordinance (ECO) and section 40 of the Pneumoconiosis (Compensation) Ordinance (PCO).

The proposed resolutions

2. The Secretary for Economic Development and Labour (SEDL) gave notice on 26 February 2003 to move two proposed resolutions at the Council meeting on 19 March 2003 to revise the maximum daily rates of reimbursement for medical expenses under section 48A of the ECO and section 40 of the PCO, to coincide with the new fee structure for public health care services to be implemented on 1 April 2003.

3. Under the ECO and PCO, the daily maximum levels have been set for the medical expenses for hospitalisation, out-patient treatment and hospitalisation plus out-patient treatment on the same day respectively. Currently, the daily maximum levels for these three categories of treatment, which have been in place since 1 August 1998, are set at the same amount of \$175.

4. According to the Administration, it is the policy to provide adequate cover for medical expenses incurred by injured employees and pneumoconiotic persons in relation to work injury or in connection with pneumoconiosis. The amount in the ECO and PCO is set to cover the costs for consultation, treatment, therapy and hospitalisation in a public clinic or hospital.

5. In November 2002, the Executive Council (ExCo) approved the revision of the fee structure for public health care services. To maintain an adequate cover for the treatment of injured employees and pneumoconiotic persons as a result of the implementation of the new fee structure of the public health care services with effect from 1 April 2003, the Administration proposes that the daily maximum rates for the three different scenarios of treatment should be revised as follows :

	<u>Existing Daily Maximum</u>	<u>Proposed Daily Maximum</u>
Hospitalisation	\$175	\$200
Out-patient treatment	\$175	\$200
Hospitalisation and out-patient treatment	\$175	\$280

6. To make it simple for employers to administer their reimbursement of medical expenses, the Administration proposes to adopt a two-tier instead of a more complicated three-tier system.

The Subcommittee

7. At the meeting of the House Committee on 7 March 2003, Members agreed that a subcommittee should be formed to study the two proposed resolutions.

8. At the request of the House Committee, SEDL withdrew his notice for moving the two proposed resolutions at the Council meeting on 19 March 2003, to allow time for the Subcommittee to study the two proposed resolutions.

9. Under the chairmanship of Hon Kenneth TING Woo-shou, the Subcommittee had held a meeting with the Administration. The list of membership of the Subcommittee is in **Appendix**.

Deliberations of the Subcommittee

Impact on insurance premium

10. Some members have expressed concern about the implications of the proposed adjustment in medical expenses payable under the ECO and PCO on the premium level of employers' compensation insurance.

11. The Administration has informed members that according to a survey conducted by the Accident Insurance Association, the amount of medical expenses incurred by insurers underwriting employee compensation insurance ranges from 0.2% to 5% of the total compensation payouts. The Accident Insurance Association has also advised that the revision of the fee structure of public health care services and the adjustment of the levels of medical expenses under the ECO would have an impact on the claim costs by about 4%, subject to a 10% deviation. The actual impact on insurance premium would be subject to the market mechanism in the light of individual employer's claims experience and individual insurer's pricing policy.

12. Hon Bernard CHAN has advised that an increase in the claim costs does not necessarily lead to a corresponding increase in the premium of the employee compensation insurance. While the insurance industry has estimated that the possible premium increase would be in the region of 8% to 10%, he agreed with the Administration that some individual insurance companies may choose to absorb the claim cost instead of raising the insurance premium, having regard to individual employer's claim history.

13. The Administration has also estimated that the proposal should not have significant economic implications for the Pneumoconiosis Compensation Fund Board as medical expenses only account for 0.88% of the Board's total annual compensation expenditure.

Transitional arrangement

14. The Subcommittee has noted that SEDL has withdrawn his notice for moving the proposed resolutions at the Council meeting on 19 March 2003 which is the last Council meeting before 1 April 2003. The Subcommittee has enquired about the arrangement for the payment of the difference between the existing rates and the revised rates of medical expenses, if the proposed resolutions cannot come into operation on 1 April 2003.

15. The Administration has advised that according to the Department of Justice, subsidiary legislation should not be made with retrospective effect. If the proposed resolutions cannot come into operation on 1 April 2003, a small number of employees who require medical treatment due to pneumoconiosis or injuries at work during the interim period may not be able to claim full reimbursement of the medical expenses incurred. For these cases, the Administration is exploring the possibility for some charitable funds to provide financial assistance, where necessary, to the employees or pneumoconiotics concerned.

Legislative timetable

16. The Administration has explained that its original intention was to move the two proposed resolutions at the Council meeting on 19 March 2003, so that the revised levels of medical fees could take effect on 1 April 2003 to coincide with the full implementation of the new fee structure of the public health care services. As a subcommittee was formed to scrutinise the proposed resolutions, SEDL had withdrawn his notice for moving the proposed resolutions at the Council meeting on 19 March 2003. As a result, it was not possible for the revised levels of medical expenses under the ECO and PCO to take effect on 1 April 2003. In order to minimise the impact on injured employees and pneumoconiotics after the new medical fees become effective on 1 April 2003, the Administration has requested the Subcommittee's support for SEDL to move the two proposed resolutions at the first Council meeting in April 2003, i.e. the meeting commencing on 2 April 2003.

17. Some members have pointed out that as ExCo had already approved the new fee structure for public health care services in November 2002, the Administration should have given notice to move the two proposed resolutions at an earlier Council meeting. These members consider it unfair to the injured employees or pneumoconiotics if they cannot claim full reimbursement of the medical expenses because the revised rates of medical expenses under ECO and PCO cannot come into operation on 1 April 2003.

18. The Administration has explained that it had worked under a very tight timetable. After ExCo had approved the new fee structure for public health care services in November 2002, the Labour Department had to ask the insurance industry for an assessment of the revision of medical fees on the premium of employee compensation insurance. It was also necessary to consult the Labour Advisory Board and the Pneumoconiosis Compensation Fund Board on the proposed revision to the levels of medical expenses. The Administration then consulted the Panel on Manpower on 20 February 2003. As the Financial Secretary was to announce the lifting of the moratorium of public fees in his Budget speech on 5 March 2003, SEDL could only give notice to move the proposed resolutions at the Council meeting on 19 March 2003.

Other legislative proposals involving adjustments to medical fees

19. Some members have expressed concern that, if there are other legislative proposals involving revision of the reimbursable levels of medical expenses as a result of the implementation of the new fee structure for public health care services, the Administration should introduce such legislative proposals into LegCo as early as possible to allow sufficient time for Members to study the implications of these proposals. Some members suggest that the Administration should also consider simplifying the consultation process if the proposed legislative amendments are only technical in nature. The Administration has noted members' comments.

Recommendations

20. The Subcommittee supports the two proposed resolutions.
21. The Subcommittee also supports the Administration's proposal of -
 - (a) its giving fresh notice to move the two proposed resolutions at the earliest Council meeting after 1 April 2003 (i.e. the Council meeting commencing on 2 April 2003); and
 - (b) its seeking the leave of the President to dispense with the notice period requirement for moving motions under Rule 29(1) of the Rules of Procedure.

Advice sought

22. Members are invited to support the Subcommittee's recommendation in paragraph 21 above.

Council Business Division 2
Legislative Council Secretariat
20 March 2003

**Subcommittee to study the proposed resolutions
under section 48A of
the Employees' Compensation Ordinance and
section 40 of the Pneumoconiosis (Compensation) Ordinance**

Membership list

Chairman Hon Kenneth TING Woo-shou, JP

Members Hon Cyd HO Sau-lan
Hon LEE Cheuk-yan
Hon Bernard CHAN, JP
Hon YEUNG Yiu-chung, BBS
Dr Hon LAW Chi-kwong, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok

(Total : 12 members)

Clerk Mrs Constance LI

Legal Adviser Mr KAU Kin-wah

Date 14 March 2003