

**Information Paper for Legislative Council Subcommittee on
Government Motions under the
Employees' Compensation Ordinance and
Pneumoconiosis (Compensation) Ordinance**

Resolution of the Legislative Council
under Section 48A of the
Employees' Compensation Ordinance, Cap 282

Resolution of the Legislative Council
under Section 40 of the
Pneumoconiosis (Compensation) Ordinance, Cap 360

INTRODUCTION

This paper informs Members of the background to two resolutions on revising the levels of medical expenses payable under the Employees' Compensation Ordinance (ECO) and the Pneumoconiosis (Compensation) Ordinance (PCO) to keep in line with the new fee structure of the public health care services which will come into effect on 1 April 2003.

BACKGROUND

2. The ECO provides for the payment of compensation to employees and family members of deceased employees for occupational diseases, injuries or deaths caused by accident arising out of and in the course of employment. The PCO provides for the payment of compensation to persons, or family members of persons who are diagnosed on or after 1 January 1981 as suffering from pneumoconiosis and are incapacitated by or die as a result of pneumoconiosis.

3. According to the two ordinances, a claimant who has received medical treatment in respect of a work injury or in connection with pneumoconiosis may claim reimbursement of the actual amount of medical expenses incurred, subject to a daily maximum. "Medical expenses" is defined to mean all or any of the following expenses incurred in respect of the medical treatment of an injured employee or a pneumoconiotic person –

- (a) the fees of a medical practitioner, registered dentist, registered chiropractor, registered physiotherapist or registered occupational therapist¹;
- (b) the fees for any surgical or therapeutic treatment;
- (c) the cost of nursing attendance;
- (d) the cost of hospital accommodation as an in-patient;
- (e) the cost of medicines, curative materials and medical dressings.

4. Under both ECO and PCO, the daily maximum levels have been set for the medical expenses for (a) hospitalisation; (b) out-patient treatment; and (c) hospitalisation plus out-patient treatment on the same day. Currently, the daily maximum levels for the three categories of treatment, which have been in place since 1 August 1998, are set at the same amount of \$175.

5. It has been our 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. We have all along adopted the principle that the amount is set to cover the costs for consultation, treatment, therapy and hospitalisation in a public clinic or hospital.

6. In November 2002, the Executive Council approved the revision of the fee structure for public health care services. A summary of the respective changes to the fees and charges is set out at Annex A. The maximum expenses that may be incurred by injured employees or pneumoconiotic persons in seeking medical treatment in the public health system on any day under the new fee structure are set out in Annex B.

THE PROPOSAL

7. 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, it is proposed that the daily maximum rates for the three different scenarios of treatment should be revised as follows:

¹ Under the PCO, only the fees of medical practitioners are covered.

	<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

8. To make it simple for employers to administer their reimbursement of medical expenses, we propose to adopt a two-tier instead of a more complicated three-tier system.

9. The ECO and PCO provide that the levels of medical expenses could be amended by resolution of the Legislative Council. The two resolutions to be made under section 48A of the ECO and section 40 of the PCO respectively are attached at Annexes C and D.

LEGISLATIVE TIMETABLE

10. Our original intention is to move the two resolutions at the meeting of the Legislative Council on 19 March 2003 so that the revised levels could take effect on 1 April 2003 to coincide with the full implementation of the new fee structure of the public health care services. However, it is now not feasible to adhere to this time table as the Legislative Council has decided to form a subcommittee to scrutinise the proposal.

11. According to the advice of the Department of Justice, subsidiary legislation should not be made with retrospective effect. This means that a small number of injured employees or pneumoconiotics who would receive medical treatment on or after 1 April 2003 and before the revised levels of medical expenses come into operation might not be able to claim full reimbursement of the expenses incurred.

12. In order to minimise the impact on injured employees and pneumoconiotics, and subject to the completion of scrutiny and agreement by this subcommittee, we plan to move the two resolutions at the first sitting in April 2003 (2 April 2003). Against this background, we would need to seek the leave of the President of the Legislative Council for permission to move the two resolutions under the ECO and PCO respectively with a shorter notice period.

FINANCIAL AND STAFFING IMPLICATIONS

13. There is no staffing implication for the Government arising from the adjustments to the levels of medical expenses under the ECO and PCO.

14. The adjustments to the levels of medical expenses would have impact on the Pneumoconiosis Ex Gratia Scheme (the Scheme) funded by the Government. As medical expenses only account for about 0.79% of the total annual expenditure of the Scheme, it is expected that the proposal would not have substantial financial implication on the Scheme.

ECONOMIC IMPLICATIONS

15. The Accident Insurance Association advised that the revision of the fees 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.

16. The proposal should not have significant economic implications for the Pneumoconiosis Compensation Fund Board (PCFB) as medical expenses only account for 0.88% of the Board's total annual compensation expenditure.

CONSULTATION

17. The LegCo Panel on Manpower, the Labour Advisory Board and the PCFB have been consulted and have agreed to the proposal.

Fees and Charges for Public Health Care Services

(I) New fee implemented since 29 November 2002

<u>Service</u>	<u>Existing fee</u>	<u>New fee</u>
Accident & Emergency	Nil	\$100

(II) Revised fees to be implemented from 1 April 2003

<u>Services</u>	<u>Existing fees</u>	<u>Revised fees</u>
Hospitalisation	\$68	\$100 ²
Specialist Out-patient	\$44	\$60 ³ + \$10 per drug item
General Out-patient	\$37	\$45
Physiotherapy/Occupational Therapy	\$44	\$60
Dressing & Injection	\$15	\$17

² An additional admission fee of \$50 will be charged for the 1st day of hospitalisation. This admission fee will be waived if the patient is referred by A&E Department.

³ The charge for a patient's first attendance ~~to~~ at a Specialist Out-Patient clinic is \$100. Subsequent charge is \$60 per attendance.

ANNEX B

Maximum Expenses That May Be Incurred On A Day In Seeking Treatment In Public Health System

	Hospitalisation	Out-patient treatment	Hospitalization & out-patient treatment⁴
A&E service	\$100	-	-
Hospital admission fee	- ⁵	-	\$50
Hospitalisation charge per day	\$100	-	\$100
Specialist out-patient and drugs	-	\$110 ⁶	\$110 ³
Therapeutic treatment	-	\$60	-
Injection and dressing	-	\$17	\$17
Total	\$200	\$187	\$277

⁴ This Scenario would arise when an injured employee attends out-patient treatment and is then referred by the medical practitioner for admission to public hospital on the same day. The occurrence of such scenario should be rare.

⁵ No admission fee is charged if the patient is referred by A & E Department.

⁶ Attendance at specialist out-patient clinic will be charged at \$60. It is assumed that on average a claimant will take 5 drug items, at \$10 per item, at each attendance for treatment.

EMPLOYEES' COMPENSATION ORDINANCE

RESOLUTION

(Under section 48A of the Employees' Compensation Ordinance (Cap. 282))

RESOLVED that, with effect from a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette, the Third Schedule to the Employees' Compensation Ordinance be amended -

- (a) in paragraph 1(b), by repealing "\$175" and substituting "\$200";
- (b) in paragraph 2(b), by repealing "\$175" and substituting "\$200";
- (c) in paragraph 3, by repealing "\$175" and substituting "\$280".

ANNEX D

PNEUMOCONIOSIS (COMPENSATION) ORDINANCE

RESOLUTION

(Under section 40 of the Pneumoconiosis (Compensation)
Ordinance (Cap. 360))

RESOLVED that, with effect from a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette, Part I of the Second Schedule to the Pneumoconiosis (Compensation) Ordinance be amended -

- (a) in paragraph 1(b), by repealing "\$175" and substituting "\$200";
- (b) in paragraph 2(b), by repealing "\$175" and substituting "\$200";
- (c) in paragraph 3, by repealing "\$175" and substituting "\$280".