

LEGISLATIVE COUNCIL BRIEF

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

The existing levels of medical expenses payable by an employer under the Employees' Compensation Ordinance (ECO) or by the Pneumoconiosis Compensation Fund Board (PCFB) under the Pneumoconiosis (Compensation) Ordinance (PCO) need to be raised when the revision of the fee structure for public health care services is fully implemented.

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;

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

- (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, daily maximum rates 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 rates 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, it is proposed 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

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.

THE LEGISLATIVE COUNCIL RESOLUTIONS

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 was to move the two resolutions at the meeting of the LegCo 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. On 7 March 2003, the LegCo House Committee decided to form a subcommittee to examine the resolutions. The Subcommittee completed its examination on 14 March 2003 and endorsed the proposals.

11. The legislative timetable for the resolutions is as follows –

To move the resolutions in the LegCo	2 April 2003
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12. As advised by the Department of Justice, subsidiary legislation should not be made with retrospective effect. In order to minimise the impact on injured employees and pneumoconiotics and subject to the approval of the resolutions by the LegCo, we intend to bring the revised rates of medical expenses into effect on 4 April 2003.

BASIC LAW IMPLICATIONS

13. The Department of Justice advises that the proposed resolutions do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

14. The Department of Justice advises that the proposed resolutions are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

15. The amendment will not affect the current binding effect of ECO and PCO.

FINANCIAL AND STAFFING IMPLICATIONS

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

17. 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

18. 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 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.

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

CONSULTATION

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

PUBLICITY

21. A press release will be issued after the resolutions have been passed. A spokesman will also be available to handle media and public enquiries.

Annex A

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 ¹
Specialist Out-patient	\$44	\$60 ² + \$10 per drug item ³
General Out-patient	\$37	\$45
Physiotherapy/Occupational Therapy	\$44	\$60
Dressing & Injection	\$15	\$17

¹ 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.

² The charge for a patient's first attendance at a Specialist Out-Patient clinic is \$100. Subsequent charge is \$60 per attendance.

³ The new charge for drugs will take effect from 1 May 2003.

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

	Hospitalisation	Out-patient treatment	Hospitalization & out-patient treatment¹
A&E service	\$100	-	-
Hospital admission fee	- ²	-	\$50
Hospitalisation charge per day	\$100	-	\$100
Specialist out-patient and drugs	-	\$110 ³	\$110 ³
Therapeutic treatment	-	\$60	-
Injection and dressing	-	\$17	\$17
Total	\$200	\$187	\$277

¹ 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.

² No admission fee is charged if the patient is referred by A & E Department.

³ 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 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".

PNEUMOCONIOSIS (COMPENSATION) ORDINANCE

RESOLUTION

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

RESOLVED that 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".