For discussion
On 13 June 2005

LC Paper No. CB(2)1748/04-05(03)

Legislative Council Panel on Health Services

Hospital fees and Charges – Non-eligible Persons and Private Patients

Purpose

This paper sets out further information in respect of minimum package fee for Non-eligible Persons (NEPs) giving birth in public hospitals and revision of private service consultation fees.

Background

2. At the meeting of the Panel on Health Services on 17 May 2005, Members, having considered LC Paper No CB(2) 1530/04-05 (05), requested the Administration, in relation to NEPs giving birth in public hospitals, to –

(a) draw reference from the experience in other countries in considering appropriate measures to be adopted;
(b) to revert to the Panel on the progress of its deliberations on the viable options in due course;
(c) to hold discussions with the Mainland authorities on finding solutions to the problems;

In relation to fees for private patients, to

(a) provide supplementary information on-
   (i) the methodology for setting the proposed new private service consultation fees in pre-set ranges to replace the current standard rates;
   (ii) the policy on and factors to be considered in the allocation of resources for the provision of private services at Hospital Authority (HA) hospitals and clinics, taking into account that the provision of private services might adversely affect

medical services in other areas; and

(iii) whether a monitoring mechanism had been put in place to regulate the provision of private services at individual hospitals and clinics at appropriate levels; and

(b) to provide updated information on the number of patients seeking private service consultation at HA hospitals and clinics.

3. Members also requested the Administration to take account of members' views on fees and charges for NEPs and private patients and provide a response for discussion at the meeting on 13 June 2005.

Measures for addressing the problem of NEPs defaulting on payment for public health services

4. In the Director of Immigration v. CHONG Fung Yuen (2001) 4 HKCFAR 211 the Court of Final Appeal held that the meaning of Article 24(2)(1) of the Basic Law was clear, Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region (HKSAR) are permanent residents of the HKSAR upon whom Article 24(3) confers the right of abode, regardless of the immigration status of their parents. We understand that unlike us, few jurisdictions confer citizenship / permanent resident status to a person merely by birth.

5. Members may wish to note that the law governing the nationality of children born to non-residents in other places vary and, in many instances, differ from that in the HKSAR. We understand that in many places including New Zealand, Australia and Malaysia for example, the requirement to apply for entry visas for certain visitors probably carries a screening effect.

6. In relation to measures such as refusing entry of pregnant Mainland women to the HKSAR and requesting the Mainland authorities to prohibit pregnant women suspected of planning to give birth in Hong Kong from leaving the Mainland, Members may wish to note that a submission on the viability of such measures was made to the Panel on Security earlier this year. The details are set out in Annex A.

7. At the last Panel on Health Meeting, the Administration undertook to revert to Members on the viability and legality of making the issuance of the certificate in respect of a child born in public hospital in Hong Kong whose mother is a non-Hong Kong resident contingent upon production of the payment receipt issued by the Hospital Authority. Under the Births and Deaths Registration Ordinance (Cap 174), birth of any child is to be registered within 42 days after the day of the birth. The particulars to be registered concerning any birth include the status of the child as a permanent resident of the HKSAR whether established or not established. Hence, the registration of births and issuance of birth certificates is required by law regardless whether the parent has paid the amount due for the birth to the HA.

8. We considered the option of amending the law to make the issuance of a birth certificate contingent upon clearing of debt owed to the HA. However, according to legal advice, it would be objectionable from the legal point of view to amend the law to deprive a child of a right provided by the Basic Law because of its parent's failure to settle his/ her debts.

9. Separately, we are also exploring the viability of amending the law to allow a public officer to seek the court's agreement to issue a direction to the Director of Immigration to prevent a visitor who has yet to settle his/her medical fees with the Hospital Authority from re-entering Hong Kong. We would report to members the viability of such option upon completion of our review.

Private Fees

10. The practice of providing private services at public hospitals can be traced back to the time of the former Medical and Health Department. The provision of such services was continued when the HA was established in 1990. The main rationale for the provision of private services at public hospitals is due to the fact that there are levels of expertise and facilities within the public medical sector (especially at the teaching hospitals), which are not generally available in private sector. It is therefore considered appropriate to offer the public, some of whom might want to procure private services, a means for accessing these specialised services. The HA charges

market rates for its private services, which should at least equal to the full costs of providing such services. This charging policy ensures that HA's private services would not interfere with the normal operation of the private market.

11. There are two main types of private services at public hospitals: private specialist out-patient (SOP) services and private in-patient (IP) services. In respect of HA's private SOP services, the majority of the relevant activities are concentrated at the two teaching hospitals, namely the Queen Mary Hospital and the Prince of Wales Hospital. One non-teaching hospital, namely the Queen Elizabeth Hospital, also provides some private SOP services, but on a much smaller scale. The number of private SOP attendances for the past three years are set out in the table below –

Number of Private SOP Attendances

Name of Hospital	**2002-03**	**2003-04**	**2004-05**
Queen Mary and associated hospitals	25 073	18 316	20 529
Prince of Wales	2 528	1 344	2 243
Queen Elizabeth	1 236	396	434
Total	28 837	20 056	23 206

The lower level of activities in 2003-04 can mainly be attributed to the effects of the SARS outbreak that year. In 2004-05, there were a total of 6 048 000 SOP attendances at public hospitals, and private SOP attendances accounted for only 0.38% of that total. The amount of income generated by private SOP services was $21 million in 2004-05. To ensure that public services would not be adversely affected by the provision of private SOP service, there are guidelines in place at both teaching hospitals that restrict the time each doctor can devote to private services to one consultation session a week (i.e. 3 to 4 hours).

12. The majority of HA's private IP services are provided by the two teaching hospitals and the Queen Elizabeth Hospital, although private beds are available at 14 other public hospitals. The total number of private bed-days for the past three years are set out in the table below –

Number of Private Bed-days

Name of Hospital	2002-03	2003-04	2004-05
Queen Mary and associated hospitals	25 790	17 834	18 799
Prince of Wales	9 551	2 117	5 707
Queen Elizabeth	20 406	14 099	15 527
Other HA hospitals	3 576	1 265	1 825
Total	59 323	35 315	41 858 [1]

In 2004-05, total bed-days utilised in public hospitals was 7 380 600, and private bed-days accounted for 0.57% of that total. The volume of private IP activities was on a slight declining trend in recent years, although the significant drop in 2003-04 can be attributed mainly to the SARS outbreak. The amount of income generated by private IP services was $111 million in 2004-05. To ensure that public services would not be adversely affected by private IP services, the Government and the HA agreed that the total number of private beds in public hospitals should be limited to a maximum of 379.

13. The Administration proposed via LC Paper No CB(2) 1530/04-05 (05) to replace the standard rates for private consultation service by pre-set ranges as shown in Annex B of this paper. The main reason was that the fixed rates were inflexible and could not accurately reflect variations in the complexity of the patients' clinical conditions and the special expertise that might be required in providing treatment. The fixed rates result in both instances of over-charging and under-charging for individual patients. They are also contrary to the general practice in the private sector, where charges are set on the basis of the expertise involved and resources consumed.

14. In proposing the adoption of pre-set ranges for private service consultation fees, the HA intends to divide the level of expertise required into two levels, namely the Associate Professor / Specialist level and the Professor / Consultant level, with each expertise level commanding a sub-range of fees. The actual amount of the consultation fee would make reference to the complexity of individual cases. Take the proposed range of fees for new SOP consultation as an example. The lower limit of the range

[1] Utilisation by civil servants was estimated to be 22 600 bed-days.

at $550 would be for the treatment of a relatively simple case taking reference to the time cost of a 20-minute consultation by an Associate Professor / Specialist, whereas the upper limit of the range at $1,750 would be for the treatment of a complex case taking reference to the time cost of a 45-minute consultation by a Professor / Consultant. In this way, the fee structure would be able to take much more appropriate account of the resources used (both in terms of expertise and clinical complexity) for the provision of private consultation service. A more detailed illustration of the different fee ranges is given in Annex C.

15. The HA will not increase the level of availability of its private consultation service, if the proposed fee revision is adopted.

Health, Welfare and Food Bureau
Hospital Authority
June 2005

For Information

LegCo Panel on Security

Mainland Women Giving Birth in Hong Kong

Purpose

The purpose of this paper is to respond to issues raised by Members concerning Mainland women giving birth in Hong Kong.

Details

2. According to Article 24(2)(1) of the Basic Law, Chinese citizens born in the Hong Kong Special Administrative Region have the right of abode in Hong Kong. On 20 July 2001, the Court of Final Appeal ruled in the Chong Fung-yuen case (FACV No. 26 of 2000) that Chinese citizens born in Hong Kong have the right of abode in Hong Kong according to the Basic Law regardless of the status of their parents.

3. Although children of Chinese nationality born in Hong Kong have the right of abode under the law, this would not confer any rights on their parents who are not Hong Kong residents. If these parents themselves do not have the right of abode in Hong Kong under the law, it is our policy not to allow them to reside in Hong Kong. Otherwise extensive abuse would arise as a result.

4. The HKSAR Government is concerned about the phenomenon of Mainland women giving birth in Hong Kong. According to statistics for the first 11 months of 2004, the fathers of nearly 70% of the babies born to Mainland women in Hong Kong are Hong Kong residents. Therefore, even if they were not born in Hong Kong, they could still apply to settle here under the One-way Permit Scheme.

5. Meanwhile, we have noticed that the increasing number of cases in which neither parent of the babies born to Mainland women in Hong Kong is a Hong Kong resident. Among the babies born to Mainland women in Hong Kong in 2002, there were 12% whose fathers were not Hong Kong residents. This percentage increased to 18% in 2003 and further to 28% in the first 11 months of 2004.

6. Our reply to Members' suggestions is set out below.

Refusing entry of pregnant Mainland women

7. Visitors (including Mainland visitors) who possess valid travel documents are normally allowed to enter Hong Kong as long as they meet normal immigration requirements (such as having adequate travelling expenses) and the Immigration Department (ImmD) is satisfied with the bona fides of their purpose of visit. ImmD will not refuse entry of a visitor solely on the ground of pregnancy. Even if ImmD lay down rules prohibiting visitors whose pregnancy has reached a certain stage from entering Hong Kong, the effectiveness of such a measure would probably be limited. It is difficult to establish whether an individual visitor is pregnant. The measure might even prompt Mainland women who have the intention to give birth in Hong Kong to enter Hong Kong at an early stage of pregnancy and overstay to give birth.

Requesting the Mainland authorities to bar pregnant women suspected of planning to give birth in Hong Kong from exit or to prohibit women whose pregnancy has reached a certain number of weeks from applying for entry to Hong Kong

8. We understand that it is difficult for the Mainland authorities to prevent pregnant women from leaving the Mainland. It is difficult for them to refuse exit applications from Mainland women solely because they are pregnant. In practice, it is also difficult for the exit and entry authorities in the Mainland to determine whether individual applicants are pregnant or not.

Exploring the possibility of entering into an agreement on mutual legal assistance with the Mainland authorities to enable them to enforce execution writs applied for by the HKSAR Government in respect of default of payment by Mainland pregnant women giving birth in Hong Kong

9. According to information provided by the Administration Wing of the Chief Secretary for Administration's Office, there is at present no arrangement on reciprocal enforcement of judgment between the HKSAR and the Mainland. In the light of the disparities between the legal systems of the HKSAR and the Mainland, and noting that while there is support for a proposed arrangement on reciprocal enforcement of judgment, there are also concerns expressed about such an arrangement, the Administration considers it appropriate to adopt a step-by-step approach. Following consultation with the legal profession, chambers of commerce and trade associations, as well as briefing to the Panel on Administration of Justice and Legal Services, the Administration has proposed that the Arrangement should cover only *money judgments* given by a court of either the Mainland (at the Intermediate People's Court level or higher) or the HKSAR (at the District Court level or higher) exercising its jurisdiction

pursuant to a *valid choice of forum clause* contained in a *commercial contract*. The Administration has since then commenced exploratory discussions with the Mainland authorities on the proposed Arrangement. The Administration last reported the progress of the discussions to the Panel on Administration of Justice and Legal Services in November 2004. The scope of the Arrangement may be subject to review after we have gained practical experience in the implementation of the Arrangement.

10. We will, together with the relevant bureaux and departments of the HKSAR Government, continue to closely monitor the issue of Mainland women giving birth in Hong Kong.

Security Bureau
January 2005

Annex B

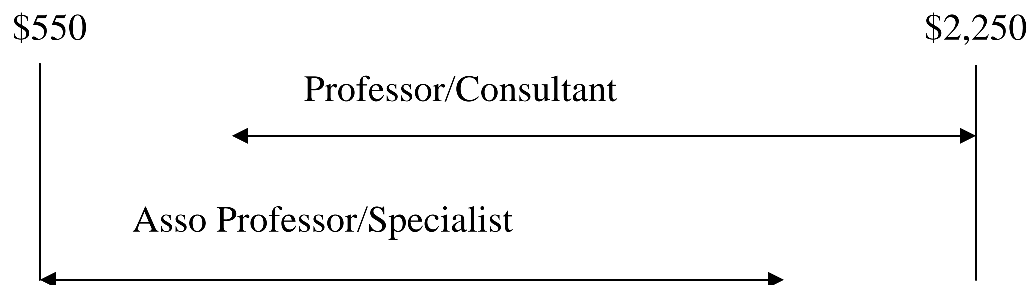
Proposed Fees for Private Service Consultation Service

	Current Charges	Proposed Charges
<u>Private Service Consultation Fee</u>		
Inpatient consultation per visit per specialty	$1,500 per day	$550 – 2,250
Outpatient charges - First consultation per visit	$1,500	$550 – 1,750
- Subsequent follow up consultation	$1,000	$450 – 1,150

Annex C

An Illustration of the Proposed Structure
For Private Service Consultation Fees

Inpatient Consultation (proposed range : $550 to $2,250)



Out-patient Consultation (New) (proposed range : $550 to $1,750)

Out-patient Consultation (Follow-up) (proposed range : $450 to $1,150)