

Our Ref : HWF/W 18/6 (94)
Your Ref : CB2/PL/WS

24 January 2007

Panel on Welfare Services
(Attn: Mr. Chris Lai)
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mr. Lai,

Written Response to the Meeting on 11 December 2006

I refer to the minutes of the meeting of the LegCo Panel on Welfare Services held on 11 December 2006, wherein the Administration was requested to provide a written response to the views and suggestions raised by Members and deputations at the meeting (paragraph 69). The following reply would also cover our response to paragraph 56 of the minutes.

Eligibility of Disability Allowance (DA)

DA was first introduced in 1973 to provide some form of financial assistance on a non-contributory and non-means-tested basis for the severely disabled. It was intended to encourage families to take care of family members with severe disabilities and enable the recipient to make some contribution to the family budget.

Against this background, a person is considered to be 'severely disabled' when he/she is certified by the Director of Health or the Chief Executive, Hospital Authority (HA) (or under exceptional circumstances by a registered medical practitioner of a private hospital) as being in a position broadly equivalent to a person with 100% loss of

earning capacity according to the criteria in the First Schedule of the Employees' Compensation Ordinance (Cap 282). At the meeting on 11 December 2006, some concern groups proposed to relax the eligibility criteria of DA and create some new categories such as "stoma" and "requiring long term care" under the DA Scheme. We have to emphasize that these groups of patients can also be eligible for DA if they are medically certified to be 'severely disabled' within the meaning of the DA Scheme.

To ensure consistency and objectivity in the medical assessment, a medical officer will make his/her recommendations to the Social Welfare Department (SWD) with the aid of a standardized "Medical Assessment Form" (MAF) and a professional checklist (checklist). The MAF sets out the eligibility criteria for DA, and the checklist is formulated by HA and Department of Health for assessing disability. Medical officers will assess the degree of disability of DA applicants in accordance with the established criteria and guidelines as well as their professional knowledge and judgment.

The Administration has always strived to improve the DA Scheme by listening to the views of the public. For example, the DA Scheme was discussed at this Panel on 14 November 2005, 12 December 2005 and 10 April 2006. Taking into account the views of Members and deputations presented at these meetings, we have revised the MAF and the checklist to spell out explicitly that 'visceral diseases' (器官殘障) are also included among the category of "any other disabling conditions resulting in total disablement". The revised MAF and checklist have already been put into use since September 2006.

Appeal mechanism

DA applicants may appeal to the Social Security Appeal Board (SSAB) if they are not satisfied with SWD's decision on their application. The Chairman and members of the Board are non-officials appointed by the Chief Executive. In respect of appeal cases on the ground of disabilities, SSAB would arrange for the appellants to undergo medical assessment by an independent Medical Assessment Board (MAB).

The Administration has constantly reviewed the appeal arrangement to enhance the efficiency of the operation. For instance, since August 2006, the HA has invited more private medical doctors to sit on the MAB so that more meetings can be held to expedite the appeal

process.

At the Panel meeting on 11 December 2006, some Members and concern groups suggested involving appellants in the hearing so that they could present their case to SSAB. We would like to point out that the appellant, in attending the medical assessment, would have the opportunity to put forward his/her case personally to the MAB. For the sake of consistency, medical doctors assess the applicants' degree of disability with reference to the guidelines in the Checklist for Medical Assessment and the SWD staff have been provided with guidelines for processing DA applications. As SSAB reaches a decision on the basis of the medical assessment result of the MAB, there is no need for the appellant to appear when SSAB deals with the appeal. SWD will consult the HA regarding the suggestion of providing written explanation of the MAB's conclusion to the appellants.

Cases of overpayment

DA payments are non-means-tested and non-contributory funded entirely by general revenue. It is the Government's long established practice to recover any overpayment of allowances in order to safeguard public funds. Failure to adhere to this principle and established practice will have significant read-across implications to Government's other efforts to recover overpayments. As indicated in her recent report, the Ombudsman in principle endorsed the Administration's position to recover overpayment to properly account for and to preserve public funds. In working out the repayment arrangements, we would take into account the circumstances of individual cases to ensure that the repayment would not cause any undue hardship to the recipient concerned. We have to reiterate that DA applicants/recipients have the responsibility to provide SWD with correct information and to make timely report on changes to information provided as all applications and reports are duly signed by the applicants/recipients. It is encouraging that most of the 71 Higher Disability Allowance (HDA) cases have agreed with SWD on repayment arrangements. We will continue to work with the remaining few cases to agree on the repayment arrangements.

We will continue our efforts to reduce overpayment and make improvements to the operation of DA. We have made improvements to the publicity pamphlets to make it clearer that boarding special schools under Education and Manpower Bureau (EMB) fall under the category of government or subvented residential institutions. Starting from October 2005, applicants are required to fill in the

Application Form by themselves to strengthen their sense of accountability in making the application. Moreover, we have put in place various cross-checking mechanisms, periodic case reviews and random checks to detect unreported changes to minimize the chances of overpayment. Indeed, detection of the 71 HDA overpayment cases was a result of SWD's efforts to step up cross-checking by matching data with EMB. We will follow-up the Ombudsman's recommendations with a view to further improving the operation of DA.

A few deputations requested that recipients who were boarding at subvented special schools or being hospitalized at public hospitals should also be granted HDA. The policy of providing Normal Disability Allowance only to recipients receiving care in government or subvented residential institutions is meant to prevent double benefit. If the persons with disability face financial hardship, they can apply for assistance under the Comprehensive Social Security Assistance (CSSA) Scheme, which provides a safety net of last resort. As to non-CSSA disabled persons with financial difficulties, they can apply to HA for medical fee waiver. Furthermore, a range of community support and rehabilitation services have also been provided to meet their special needs.

Please let me know if you need any further information.

Yours sincerely,

(D. C. Cheung)
for Secretary for Health, Welfare and Food

c.c. Director of Social Welfare
(Attn : Miss Nancy Law, Deputy Director of Social Welfare
(Administration))