



Labour Department (Headquarters)

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By Email and Fax (2185 7845)

18 July 2019

Ms Betty MA
Clerk to Panel on Manpower
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms MA,

**Panel on Manpower
Follow-up to Meeting on 16 April 2019
Agenda Item IV –
Foreign Domestic Helpers' Access to Healthcare Services**

I refer to your letter of 23 April 2019. After consultation with the Food and Health Bureau and the Hospital Authority, the Government's response to the issues requested by Members of the Panel on Manpower at the meeting on 16 April 2019 on agenda item IV – foreign domestic helpers' access to healthcare services is provided at Annex.

Yours sincerely,

(Miss CHEUNG Hoi-shan)
for Commissioner for Labour

c.c. Secretary for Labour and Welfare (Attn: Mr Dominic CHOW)
Secretary for Food and Health (Attn: Ms Clarissa WAN)
Chief Executive, Hospital Authority (Attn: Dr Ian CHEUNG)

**The Government's Response to Issues Requested by
Panel on Manpower at Meeting on 16 April 2019 on
Agenda Item IV –
Foreign Domestic Helpers' Access to Healthcare Services**

The Government's response to the issues requested by Members of the Panel on Manpower at the meeting held on 16 April 2019 on agenda item IV – foreign domestic helpers' access to healthcare services is provided in the ensuing paragraphs.

(A) Foreign Domestic Helpers' Access to Healthcare Services

2. The Government attaches great importance to safeguarding the employment rights and benefits of foreign domestic helpers (FDHs). FDHs enjoy the same statutory labour protection as local employees. In addition, the Government-prescribed Standard Employment Contract (SEC) provides additional protection to FDHs, including free medical treatment, among others. Pursuant to clause 9(a) of SEC, in the event that an FDH is ill or suffers personal injury during the period of employment (except for the period during which the FDH leaves Hong Kong of his/her own volition and for his/her own personal purposes), irrespective of whether it is attributable to his/her employment, the employer shall provide free medical treatment to the FDH, including medical consultation, maintenance in hospital and emergency dental treatment¹.

¹ If an FDH has to shoulder medical expenses him/herself under certain special circumstances (for example the FDH falls ill in Hong Kong in the two weeks after his/her contract was prematurely terminated) but cannot afford the expenses, the FDH can apply for a medical fee waiver as an Eligible Person (EP) under the Hospital Authority (HA)'s medical fee waiver system (please refer to paragraph 3 of the main text and the footnotes therein for details on EPs). The application will be assessed with due consideration given to the financial, social and medical condition of the applicant, and financial contribution received by the applicant from medical insurance or other sources.

3. Based on the principle that no one is denied adequate medical treatment due to lack of means, HA provides public healthcare services to EPs² at highly subsidised rates. Holders of Hong Kong Identity Card issued under the Registration of Persons Ordinance, except those who obtained their Hong Kong Identity Card by virtue of a previous permission to land or remain in Hong Kong granted to them and such permission has expired or ceased to be valid³, are eligible for the charges applicable to EPs.

4. An online checking system has been developed with joint collaboration of the Food and Health Bureau, the Department of Health, the Immigration Department and HA for checking the eligibility of non-permanent Hong Kong Identity Card holders (including FDHs) for subsidised public healthcare services. If the resident status of FDH is confirmed valid through the online checking system, EP charges would apply. On the contrary, if the resident status is checked invalid according to the online checking system, Non-Eligible Person (NEP) charges would apply.

5. As the provision of public healthcare services in Hong Kong is primarily prioritised to meet the needs of EPs, HA would only provide services for NEPs in emergency situations. In non-emergency situations, service provision for NEPs is subject to HA's capacity to provide such service without adversely affecting the services for EPs, and having regard to the clinical conditions of NEPs on each episode. NEP charges are set on a cost recovery basis. To ensure a rational use of limited public resources, generally there would be no waiving of medical charges by HA. Nonetheless, if there are exceptional circumstances relating to the case of a NEP (including FDHs whose resident status is checked invalid), for example, the NEP has no alternative but to stay in Hong Kong for emergency treatment, the NEP can apply for a medical fee waiver under

² Persons meeting the following criteria are eligible for the rates of charges applicable to EPs as stipulated in the Gazette –

- (i) holders of Hong Kong Identity Card issued under the Registration of Persons Ordinance (Cap. 177), except those who obtained their Hong Kong Identity Card by virtue of a previous permission to land or remain in Hong Kong granted to them and such permission has expired or ceased to be valid;
- (ii) children who are Hong Kong residents and under 11 years of age; or
- (iii) other persons approved by the Chief Executive of HA.

³ Like other non-local employees whose valid stay in Hong Kong has expired, FDHs should leave Hong Kong before expiry of their stay, i.e. upon completion of their contract or within two weeks from the date of premature termination of their contract, whichever is the earlier. That said, under exceptional circumstances, the Immigration Department may, based on individual merits, exercise discretion to allow a former FDH to extend his/her stay in Hong Kong as a visitor, with the period of stay granted having regard to the nature and progress of the respective case.

HA's medical fee waiver system. In processing the applications, the applicants' individual circumstances will be considered to assess whether there are exceptional circumstances and decide whether discretion would be exercised in favour of waiving the medical charges.

6. The existing arrangements set out in the above paragraphs have taken into consideration and struck a balance between the need of FDHs in accessing healthcare services, the obligation of employers to provide free medical treatment to FDHs under their employment, the rational use of limited public resources in providing healthcare services, as well as cases of exceptional circumstances that warrant consideration of granting a medical fee waiver.

(B) Requiring Employers to Take Out Medical Insurance for FDHs

7. Under the Employees' Compensation Ordinance (Cap. 282), employers are required to take out employees' compensation insurance (ECI) to cover their liabilities under the law (including the common law) for injuries at work in respect of their employees (including FDHs). There is no regulation under existing laws requiring employers to take out medical insurance for their employees (including FDHs). Employers may, in accordance with their needs, decide on their own whether to take out medical insurance for their employees as well as the benefit coverage and benefit limits, etc. For employers of FDHs, in complying with clause 9(a) of SEC mentioned above, they may decide whether to provide their FDHs with public or private healthcare services, and there is no regulation in SEC in this respect.

8. In order to better manage the risk associated with medical expenses incurred by FDHs suffering personal injuries or falling ill during the period of employment, FDH employers are encouraged to take out comprehensive insurance comprising both ECI and medical insurance for their FDHs. The insurance market currently offers various types of comprehensive insurance products designed for FDHs. Apart from ECI, there is also coverage for, among others, hospitalisation and surgery, outpatient and dental treatment. Some comprehensive insurance products for FDHs offer additional protection, such as coverage for items on personal accident, major illnesses, repatriation, loss of service cash allowance, etc. Since the benefit coverage, benefit limits, policy terms and conditions and the premiums vary among different comprehensive insurance products, and given that the health condition of FDHs and the financial affordability of employers differ from person to person, we consider it appropriate and more flexible for employers to decide whether to take out medical or comprehensive insurance for their FDHs and to select the most suitable insurance plan having regard to their personal needs.

9. The Labour Department (LD) has been disseminating information on the employment rights and obligations of employers and FDHs through various channels, including that the employer should clearly understand his/her responsibility to provide free medical treatment to his/her FDH during the period of employment according to SEC. LD has also been encouraging employers to take out comprehensive insurance for FDHs through publicity work, including producing a leaflet to remind employers to take out ECI and to provide free medical treatment for FDHs, including the relevant messages in the information packs distributed to employers and the new handbook produced for employers, as well as uploading the relevant information to LD's dedicated FDH Portal (www.fdh.labour.gov.hk/) to facilitate browsing by employers. LD will continue to strengthen its publicity and educational work in this area.

**Labour and Welfare Bureau
Labour Department
Hospital Authority
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