EXECUTIVE SUMMARY

Direct Investigation
Checking of Eligibility for Subsidised Medical Services

Introduction

It has been established public policy to provide public hospital and health care services at subsidised rates for Hong Kong residents only. Non-residents have to pay the full cost. However, any person in emergency – whether resident or not – will always be treated first and charged later.

2. Some examples of the typical fees charged by the Hospital Authority ("HA") and the Department of Health ("DH") are given below:

Type of service	Charge for residents	Charge for non-residents
General Outpatient Clinic	$45/attendance	$215/attendance
Specialist Outpatient Clinic	$100/attendance	$700/attendance
Accident & Emergency Department	$100/attendance	$570/attendance
In-patient service	$100/day	$3,300/day

3. In implementing this policy, it has been the practice of HA and DH to accept "holders of Hong Kong Identity Card" ("HKIC') as having resident status and hence eligibility for subsidised medical services. This does not distinguish HKIC-holders whose permission to remain in Hong Kong has lapsed, such as over-stayers and returning visitors. Thus, HA and DH have been providing subsidised medical services to non-residents **in contravention of policy**.

4. In May 2009, The Ombudsman initiated a direct investigation into this practice to draw to the attention of the organisations concerned the need for remedial action. **Our focus** is the inconsistency of practice with policy and an act of maladministration, to be rectified.

Link between resident status and the HKIC

5. While all Hong Kong residents are qualified to obtain HKIC, the mere production of HKIC is not sufficient proof of resident status, as there are two types of HKIC, as follows:

- A **permanent HKIC** is issued to permanent residents with the right of abode in Hong Kong; and is sufficient proof of resident status.

- A **non-permanent HKIC** is normally issued to persons who have been granted permission by the Director of Immigration to remain in Hong Kong for over 180 days for such purposes as education, investment, employment and residence and do not have the right of abode. Non-permanent HKIC-holders may become non-residents if their permission to remain in Hong Kong has lapsed. A non-permanent HKIC is, therefore, **not sufficient proof of resident status**.

6. A permanent HKIC can be distinguished from a non-permanent HKIC as follows:

- The former has the word "Permanent" in its title; the latter does not.

- The former carries the sentence "The holder of this card has the right of abode in Hong Kong" on the back of the card; the latter does not.

- The former carries the code A on its front to denote that the holder has the right of abode in Hong Kong; instead of Code A, the latter always carries one of the following three codes relating to resident status:

    - C: denoting that the holder's stay in Hong Kong is limited by the Director of Immigration at the time of registration;

    - U: denoting the holder's stay in Hong Kong is not limited by the Director of Immigration at the time of registration; or

    - R: denoting the holder has the right to land in Hong Kong at the time of registration.

Acceptable Checking arrangements

7. To establish the resident status of non-permanent HKIC-holders, the Immigration Department has advised that either of the following two options is considered acceptable:

- Option 1: To require holders of the **non-permanent HKIC** to present their travel documents to show their permitted limit of stay ("LOS") has not expired.

- Option 2: To require holders of the **non-permanent HKIC with Code C** to present their travel documents to show their LOS has not expired. This arrangement is considered generally sufficient by Immigration Department, as the probability of a holder of the Code R or Code U HKIC being non-resident is very small.

8. Some relevant statistics are provided below:

	As at 1 April 2008	**As at 1 July 2009**
Permanent HKICs issued	N.A.	7,360,000
Non-permanent HKICs issued	about 800,000	930,000
Non-permanent HKICs bearing Code C	N.A.	895,000
HKIC-holders whose LOS had expired, e.g. those who discontinued their residence and left Hong Kong, those who over-stayed and those who returned as visitors	140,000	220,000

Checking arrangements of other service providers

9. It is the policy of many Government departments and other service providers to accord differential treatment to Hong Kong residents and non-residents or to charge them at different rates.

10. To establish resident status, it is the current practice of a number of organizations to adopt Option 1 (**para. 7**). These organisations include the Labout Department and the Housing Department.

11. As a matter of fact, this checking arrangement is required of all employers in Hong Kong under section 17J of Immigration Ordinance, Cap. 115 to ensure that they hire employable persons only and not non-residents.

12. Other organisations, including the Social Welfare Department and public sector schools, adopt Option 2 (**para. 7**).

HA and DH practice

13. It is evident from **para. 5** above that the practice of HA and DH **to accept all HKIC-holders as eligible for the subsidised charges** without further check of their travel documents is not adequate and not consistent with policy intent. On the other hand, this practice does follow the letter of the Gazette Notices on the fees and charges of HA and DA services. These Notices define "Eligible Persons" for subsidised charges, not as Hong Kong residents, but *inter alia* as "a holder of Hong Kong Identity Card issued under the Registration of Persons Ordinance".

14. Food and Health Bureau ("FHB") has advised that this practice has been in place for as long as it can ascertain. Before 1987, this was not a problem as any person leaving Hong Kong for good was required to surrender the HKIC. In 1987, when Government introduced a new policy to permit permanent identity cards to be issued both in and outside Hong Kong, this requirement became inappropriate and was removed. With its removal, the non-permanent HKIC ceased to be sufficient proof of resident status and the checking practice of HA and DH has become inconsistent with the policy intent.

Remedial measures

15. FHB has been aware of the discrepancy between policy and practice since 2002. It has since been trying, without success, to find a solution to the problem.

16. In November 2008, FHB set up an inter-departmental working group ("WG") comprising representatives of FHB, the Security Bureau, the Immigration Department, DH and HA to explore ways for checking by electronic means. FHB considered the manual checking arrangements adopted by other organisations not practicable for hospitals and clinics because of anticipated difficulties in training staff to read the different forms of visas, complication and lengthening of the registration process, possible disputes between patients and staff, and longer waiting time with inconvenience to all patients. In short, it should not be pursued.

17. Five electronic options are being studied by the WG. However, all involve difficulty in the following areas to varying degrees:

- inconsistency with Government policy on privacy and security;
- implementation and operational issues such as those involved in manual checking (**para. 16**);

- accuracy of checking method;
- technical feasibility; and
- high cost of implementation, ranging between $16 and 81M in non-recurrent cost and between $5 and 11M per annum in recurrent cost.

18. In the light of the complications identified, the WG decided in April 2009 to conduct a survey at public hospitals and clinics to ascertain the number of non-residents accessing subsidised medical services on the strength of their non-permanent HKIC. However, this survey itself involved legal complications, privacy concerns and technical feasibility issues. In November 2009, the WG was seeking legal advice on these issues and had not worked out a timetable for the survey.

Our observations

19. Our prime concern is with efficient and effective public administration and consistency between policy and practice. We commend Government and HA for the policy and practice always to attend to persons in emergency, regardless of resident status, and to charge them later. In normal circumstances, however, the declared policy is to subsidise public medical and health services for residents only. Yet, the practice has been at variance with this policy for years. Non-compliance of practice with policy is **an act of maladministration**. Knowingly to continue with such non-compliance compounds the situation. Apart from putting undue burden on the public purse, it affects standards of service in terms of congestion and waiting time for those eligible, putting more pressure on already stretched medical services.

20. If this mistake in practice is allowed to continue, the problem will only grow. Already the number of LOS-expired HKICs increased by 57% from 140,000 in April 2008 to 220,000 in July 2009. With globalisation, increasing ease of interaction with the Mainland and more visitors from other areas coming to Hong Kong for work or education, more people will be obtaining non-permanent HKICs and keeping them after expiry of their limit of stay. Such HKICs will be available for access to subsidised medical services.

21. FHB is taking a **step in the right direction** in setting up the WG to address the problem. However, the WG **needs to take a more positive and pragmatic** approach.

22. While the electronic options are being examined, the WG should earnestly reconsider manual checking, a common practice with others, for the reasons below:

- Manual checking is a proven procedure in use by other service providers and is, in fact, a legal requirement for all employers in Hong Kong (**para. 10 to 12**).

- Compared to the electronic options being examined by the WG, which involve high costs and are fraught with security and privacy problems (**para. 17**), manual checking is simpler, relatively low-cost and straightforward.

- FHB's anticipated operational difficulties and adverse impact on service delivery associated with manual checking are likely to apply also to the five electronic options to varying degrees (**para. 17**).

Latest development

23. On 19 December 2009, FHB advised us that Government had finally resolved the legal and privacy issues of the survey on the utilization of subsidised medical services by non-residents (**para. 18**), and would proceed with it in early 2010. Results are expected to be available in the first quarter of 2010.

24. Pending this full-scale survey, HA and the Immigration Department conducted a simplified survey from 10 to 15 December 2009 on the registration records of some of HA's services (including general outpatient, specialist outpatient and inpatient services). This simplified survey showed that over the six-day period a total of 224,300 HKIC-holders made use of the three types of HA services at subsidised rates, 8,079 of whom held the Code C HKIC, with 113 (or 1.4% of the Code C HKIC-holders) being non-residents whose LOS had expired.

25. The size of the problem can only be assessed with greater certainty when the results of Government's full-scale survey are available in the first quarter of 2010.

26. FHB has reiterated its concern over the practical problems of manual checking of travel documents at public hospitals and clinics. However, FHB has indicated willingness to consider the feasibility of manual checking for non-resident patients when the result of the planned survey on the size of the problem is available.

27. Meanwhile, we note that the smart identity card system will be due for review and upgrade/replacement in a few years. This will provide an opportunity for many of the complications of additional checking to be overcome and for a long-term electronic solution to be pursued.

Our recommendations

28. We recommend that:

- the non-compliance of practice with policy should be rectified;

- reasonable and realistic steps should be taken both in the short term and the long term to rectify the situation. In this context, the option of manual checking of travel documents, already effectively used by other service providers, should be reconsidered; and

- before the current practice is rectified and additional checking arrangements, whether electronic or manual, are introduced, clear guidelines should be promulgated for staff reference and execution and extensive multi-media publicity should be mounted to alert and educate the public as well as prospective patients; and

- to introduce electronic checking, as the long-term solution, as soon as practicable.

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