Direct Investigation:
Medical Fee Waiver System

Background

It is Government policy that no one should be denied medical care because of lack of means. To assist low-income and other vulnerable groups, Government has long had a waiver system administered by the Hospital Authority ("HA") and the Social Welfare Department ("SWD").

2 A complaint alleging abuse of the fee waiver system prompted The Ombudsman to make preliminary inquiries with HA and SWD. Over the years, the amount of fees waived has been substantial but there was no information or statistics on applications rejected. Meanwhile, both HA and SWD claimed not to have detected any case of abuse.

3 As public resources are finite, the community expects the authorities to ensure public resources are used for those genuinely in need and to guard against abuse. The Ombudsman declared a direct investigation under section 7(1)(a)(ii) of The Ombudsman Ordinance, Cap. 397 on 27 October 2005, to examine:

(a) the role of HA and SWD in administering the medical fee waiver system;

(b) the existing mechanism for detecting, deterring and preventing abuse; and

(c) the adequacy and effectiveness of the existing mechanism.

Eligibility

4 Recipients of Comprehensive Social Security Assistance ("CSSA") are automatically eligible and need not apply. Other vulnerable groups not receiving CSSA, namely those on low income, chronically ill with limited means and elderly with limited means, may apply to Medical Social Workers ("MSWs") for waiver. MSWs in the employ of HA or SWD process waiver applications in accordance with the *Operational Guidelines for MSWs in Waiving of Medical Charges*, issued in March 2003.

5 The assets and income of an applicant's household are assessed: the former on the basis of the number and composition of family members and the latter, in proportion to the Median Monthly Domestic Household Income ("MMDHI").

6 Applicants who come within the asset limit and whose household income not exceeding 50% of MMDHI qualify for full waiver. Those earning in the range of 50% to 75% of MMDHI may have their fees fully or partially waived at the discretion of the MSW on a case-by-case basis, making reference to a number of "non-financial" factors. For patients whose household income is above 75% of the MMDHI, the Guidelines require MSWs to check if there are "special expenses" that make it difficult for the patients to pay the medical fees. MSWs may also grant waiver to patients who do not meet the financial criteria but have "special difficulties".

Processing of Applications

7 Applicants are required to report their financial status in a form. This contains a warning against providing knowingly false information, which may lead to prosecution. The Guidelines require MSWs to read the warning aloud to the applicant. They do not require MSWs to go beyond the information and documents supplied by the applicant as the onus for true and full facts rests on the latter.

8 Once an application is approved, the patient will be issued a certificate for waiver. This may be one-off or for a period of three to six months.

9 MSWs are authorised to waive medical fees up to $7,000 ($5,000 for some institutions). Waiver above this level requires higher authority. Certain cases, including those approved on non-financial grounds, are subject to supervisory review.

10 Fees were reviewed in November 2002. In 2004/05, some 1.1 million persons were granted waiver at a cost of over $500 million. Of these, about 183,000 were non-CSSA recipients, with over $100 million waived. Waivers of over $6.8 million were granted on non-financial grounds, representing some 6.8% of the non-CSSA cases. A survey conducted by HA in 2003/04 revealed that only a tiny proportion of applications had been refused:

Year	Amount of Medical Fees		No. of Cases	
	Collected	Waived*	Waived*	Applications refused
2002/03 (November 2002 – 31.3.2003)	$831 M	$346 M ($76 M)	498,873 (68,911)	Figures not available
2003/04 (1.4.2003 – 31.3.2004)	$1,176 M	$517 M ($123 M)	933,809 (150,122)	1,113#
2004/05 (1.4.2004 – 31.3.2005)	$1,305 M	$527 M ($101 M)	1,108,069 (183,089)	Figures not available

Source: HA

** Figures in brackets are those concerning non-CSSA patients*

 # Figures in 2003/04 are available from a one-off survey conducted by HA on applications refused in 2003/04. Figures from June 2005 are now available with the introduction of the e-waiver. 126 applications were refused in the second half of 2005.

HA and SWD claimed not to have detected any case of abuse, ever.

Scope for Loopholes

11 For a fuller understanding of the system, we attempted to examine case files and statistical data, particularly on cases rejected. Our objective was primarily to identify deficiencies and opportunity for abuse with a view to recommending improvement where appropriate. However, both HA and SWD could not provide such statistics. As for files, those we had examined were rejected because the applicants had honestly reported household income or household assets that exceeded the prescribed limits. We did not find any case which was rejected because the applicants had been found to supply knowingly false, incomplete or inaccurate information. HA and SWD considered that there was no abuse on the ground that they had not identified any such case. Meanwhile, we had received information on two cases which suggested that there were certain deficiencies in the system. Having examined HA and SWD's response to our inquiries concerning these two cases, we consider that they do illustrate loopholes in the system. The mentality of some in the HA and SWD management also causes concern.

Oversight or "Cover-Up"?

12 In one case, an applicant for waiver showed MSW A his bank passbook, which contained entries of two deposits, each of $4,275, in the preceding month. MSW A assumed his income to be $4,275, thus coming within the income limit (i.e. within 75% of MMDHI -- $6,000), and granted full waiver for three months on financial grounds. In fact, as shown in his passbook, the patient's monthly income was $8,550 ($4,275 x 2) and way over the limit for full waiver.

13 When the waiver expired, the patient applied again. This time, MSW B spotted the mistake and reported it to district management, an Assistant District Social Welfare Officer ("ADSWO").

14 When asked to comment on the mistake, MSW A claimed that she had taken into consideration the patient's mental condition and approved the waiver on non-financial grounds. ADSWO endorsed the full waiver for the patient on non-financial grounds as an incentive to him for psychiatric treatment. The decision was supported by the District Social Welfare Officer ("DSWO").

15 MSW B persisted and addressed higher authority in SWD with an indication of her intention to take the matter to a Legislative Councillor and this Office. ADSWO warned MSW B, with threat of disciplinary action, against causing embarrassment to the Administration. MSW B did not give up and emailed a Chief Social Work Officer in Headquarters, with her observations on the incident. She was advised to abide by the decision of district management.

16 ADSWO considered MSW A to have made a "professional assessment and a justified judgment". Although she granted the waiver on financial grounds, she had taken into account the patient's mental condition and the risk of his not attending further treatment if he had to pay.

17 SWD admitted to this Office that MSW A had overlooked the patient's income. However, it has been a long-standing practice for MSWs to grant waiver to psychiatric patients regardless of their means, to motivate them to receive medical treatment lest they pose a threat to the community. SWD considered this practice to be covered in para. 13 of the Guidelines, that "waiver should be granted to patients with special difficulties but who fail to meet the financial criteria".

Our Observations

(1) ***File records clearly indicated that MSW A had mistaken the applicant's income and originally approved the waiver on financial grounds. However, she was allowed to give retrospective justification, after her mistake came to light three months later, that she had approved the waiver on non-financial grounds instead.***

(2) ***In allowing and endorsing retrospective justification, the senior staff in this case were clearly not following the Guidelines. The patient's monthly household income was well over $6,000 and 100% of the applicable MMDHI. Para. 13 of the Guidelines was about the non-financial criteria applicable to patients whose income is between 50% and 75% of MMDHI. In citing one sentence of para. 13 to justify grants of waiver regardless of income, SWD had taken its meaning out of context.***

(3) ***In our view, this would be a case for the "supervisory review" cited at para. 9. However, as it happened, we find it strange that MSW B's discovery and attempt, quite properly, to rectify should have drawn such reactions from both district management and Headquarters.***

Obliviousness to Deficiencies

18 Allegedly, in a case where a patient had defaulted $12,000 in medical fees, an MSW was asked by accounting staff to "waive" the sum to avoid writing-off. As MSWs could grant waivers only up to $7,000, two certificates were issued to cover the amount.

19 This suggests the possibility of granting waiver even without applications and circumventing Government accounting and financial regulations. Without verifying the veracity of the case because of the anonymity of the informant, we asked HA and SWD if such practices were possible. Both HA and SWD made blanket statements that there were adequate safeguards and control in the Guidelines to prevent abuse and emphasised that MSWs were fully conversant with the criteria and proper procedures.

20 We raised two further specific questions:

(a) whether MSWs could grant waiver in the absence of a signed application; and
(b) whether they could dispense with the requirement to seek approval for waiving fees over $7,000.

21 Regarding (a), HA and SWD stated that patients emotionally disturbed, abused or suffering from psychiatric illness may be resistant to treatment and not apply for waiver for treatment. MSWs may, therefore, exercise their discretion and grant waiver to such patients even in the absence of a signed application form. Neither HA nor SWD considered this a problem. SWD again cited para. 13 of the Guidelines to justify this discretion.

22 As for (b), HA and SWD simply indicated that MSWs would seek approval under these circumstances. Later, HA advised that its accounting system will detect cases where the total sum waived exceeds $7,000.

Our Observations

(1) ***We cannot find anything in the Guidelines, in para. 13 or elsewhere, that provides for granting of waiver in the absence of application. SWD is again citing the sentence out of context to justify waivers not covered in the Guidelines.***

(2) ***The case has revealed scope for malpractice in the system.***

(3) ***We are concerned that both HA and SWD should have dismissed the matter so readily.***

Our Views

23 We commend Government for its commitment to provide for the truly needy and vulnerable. We firmly support the principle and philosophy that it is the community's responsibility to look after the less fortunate members. In this context, the waiver system funded by taxpayers' money should be properly administered to benefit only those genuinely in need. As custodians of public funds, HA and SWD must guard against misuse or abuse.

Processing of Applications and Eligibility

24 In less than 29 months (from November 2002 to March 2005), MSWs had approved over 400,000 applications, waiving some $300 million. In 2003/04, MSWs had approved over **99%** of the applications (150,122 waived of 151,235 applications) at $123 million.

25 In processing applications, the case MSW is at once the disburser and the gatekeeper. The MSW is expected to exercise judgment to approve waiver for the genuinely needy and vulnerable but to refuse those not justified or qualified.

26 Admittedly, attempts by applicants to hide assets and income or to overstate expenses are often not easily detected as case volume is great and verification is not mandatory. Moreover, the non-financial criteria for approval are loose and vague. The case MSW is the first, and often even the only, line of defence in the system to scrutinise an application. The first case indicates a disturbing management mentality: an officer vetting an application properly and pointing out an earlier error was not only not appreciated by the supervisors, but actually "gagged" with threat of discipline. Meanwhile, ADSWO regarded MSW A to have made "professional assessment" for ignoring the Guidelines.

27 The almost 100% approval of waiver suggests the possibility of insufficient focus on genuine need or care in scrutiny of applications. The vague criteria for waiver on non-financial grounds may also lead to inconsistencies among MSWs in their decisions. There is, therefore, a need for them to document properly the non-financial factors, particularly the "special difficulties" and the basis for decision. This would facilitate review by supervisors and consistency among MSWs.

28 We support an honour system, especially in view of the volume of cases coming before MSWs and the urgency of many (perhaps even most) patients for assistance. It is just not possible to verify each piece of information provided before granting waiver. However, applicants must be deterred from providing knowingly false, incomplete or inaccurate information. The warning contained in the form and read out by the case MSW can have little deterrent effect if no post-approval random check is ever conducted and no attempt to defraud penalised.

29 HA and SWD's complacent attitude to the current system is surprising and worrying. They seem not to recognise possible loopholes in the system even though they are gaping wide open. There seems to be little concern, even within the management, for potential abuse or improper vetting.

Validity Period of Waiver

30 Certificate for Waiver of Medical Charges, which is valid for a period (usually three to six months), is not appropriate for patients whose financial situations are likely to change, e.g. those who are young and only temporarily unemployed. MSWs need to consider only one-off certificates to such patients so that their financial situations may be assessed every time they seek waiver.

31 For other patients, e.g. senior citizens requiring long-term medical care, the position is different. Once the genuine need for waiver is established, there is no reason to ask them to go through the application process every few months. Extending the validity of these patients' certificates will ease their plight and reduce MSWs' workload. In this regard, reference can be

drawn from the three-year review for senior CSSA recipients.

Psychiatric Patients

32 According to HA and SWD, psychiatric patients require special attention so that:

- they need not submit an application for waiver (para. 21); and
- MSWs would be inclined to grant waiver regardless of their assets and income (para. 17).

We take the point of motivating psychiatric patients to receive medical treatment. However, the practically automatic approval of waiver ignores the fact that there may be psychiatric patients who are able and willing to pay. Besides, HA and SWD have not provided documentation on how this long-standing practice should be implemented.

Recommendations

33 We support Government's policy for accessible and affordable medical care for all those in need of such services. However, we are astounded by the complacency and the complete lack of vigilance permeating through the waiver system in both HA and SWD. They seem oblivious to obvious deficiencies.

34 We applaud those MSWs who try to do their job properly. We commend their responsible endeavours.

35 The Ombudsman has made the following recommendations:

(a) Adherence to Waiver Objective

i) change the seeming established mindset of MSWs and warn them against casual approval;

ii) review the non-financial criteria for approval, to be clearer and more specific and in line with Government policy;

iii) properly document factors considered and basis of decision when waiving fees of psychiatric patients;

iv) devise a counter-checking mechanism by, say, internal audit teams, to vet approval of full waivers granted to patients whose income is above 50% of MMDHI;

v) encourage, not deter, MSWs to report cases of suspected abuse;

(b) Prevention of Abuse

i) require MSWs to examine carefully information supplied by applicants and, in case of doubt, contact family members, banks or employers in accordance with the Guidelines;

ii) for suspect but indeterminable cases, require MSWs to grant waiver first and then, involving Headquarters where appropriate, conduct post-approval investigation;

iii) select a percentage of cases at random for post-approval checks;

iv) publicise random check arrangements to deter abuse;

v) remind officers of the importance of alerting applicants to the legal consequence of providing knowingly false, inaccurate or incomplete information;

vi) take firm action against defrauders and publicise such cases;

(c) Validity Period of Waiver

i) review the validity period of certificates granted to different patient groups;

(d) Psychiatric Patients

i) to review the Guidelines to reflect the long-standing practice of giving psychiatric patients special treatment.

Overall, we consider it crucial for the integrity of the waiver system for HA and SWD to instil and sustain a more positive and vigilant attitude to vetting and approving applications. Only then can the system benefit those genuinely in need.

Comments from HA and SWD

36 We have studied the detailed comments on the draft investigation report and where appropriate, incorporated their views and proposed textual amendments.

37 They have also made some specific comments. Appended below are their comments and our response:

Comments of HA and SWD	**Our response**
1. Risk of abuse is small because: (a) the low monetary value does not make it worthwhile for the patients to defraud (b) persons must be ill and do not have monetary gain (c) MSWs are professionals	1. Over-optimistic and wishful thinking: (a) taxpayers' money, however small in amount, must be safeguarded ($746/case versus $100 daily rate for in-patient service) (b) not having to pay is a cash benefit (c) it is unfair and unrealistic for individual MSWs to safeguard a deficient system.
2. Almost 100% approval rate – because patients who know they are not eligible do not apply	2. Over-reliance on the "honour system" and under-estimating the possibility of fraudulent attempts. There were honest applicants who had stated their financial position even though that

	disqualified them. However, HA and SWD have no means of checking whether and if so, how many of the approved cases had understated their financial situation.
3. Non-financial grounds – MSWs will judge each case on merit and such cases account for a small percentage	3. Need for consistency among MSWs

38 HA and SWD have generally accepted our recommendations. Implementation of some is underway.

Final Remarks

39 The Ombudsman thanks the Chief Executive of HA, Director of Social Welfare and their staff for assistance and cooperation in this exercise. She is pleased to learn of their acceptance of our recommendations and will monitor progress of implementation.

40 She also places on record her gratitude to those who have shared with us their views on this subject.

Office of The Ombudsman
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