

Omission by Department of Health and Social Welfare Department to include persons with disabilities receiving Comprehensive Social Security Assistance as an eligible group under the Vaccination Schemes

Investigation Report

Two members of the public (referred to as “the complainants”) lodged a complaint with this Office separately against the Department of Health (“DH”) and the Social Welfare Department (“SWD”). They alleged that DH had unreasonably refused to provide free or subsidised vaccination service, contrary to the principles of the Vaccination Schemes. They were also dissatisfied with SWD for failing to coordinate with DH and issue the relevant documentary proof to them.

The Complaint

2. Under the Vaccination Schemes operated by the Vaccination Office of the Centre for Health Protection (“CHP”) under DH, persons receiving the Disability Allowance (“DA”) are eligible for free or subsidised vaccination. They only need to present the notification of successful application for DA issued by SWD to receive the vaccination.

3. The complainants are both persons with permanent disabilities and recipients of the Comprehensive Social Security Assistance (“CSSA”). The CSSA notification issued by SWD to the complainants did not contain the words “disability allowance”. Upon enquiries, SWD told the complainants that the DA was already included in their allowances, and the notification would only show the “standard rate”.

4. In November and December 2018, the complainants requested to receive free vaccination at a private clinic enrolled in the Vaccination Schemes and a DH clinic respectively. Nevertheless, both clinics replied that the complainants must present a letter issued by SWD with the words “disability allowance” printed on it to be eligible for free vaccination. Since the words “disability allowance” were not on the CSSA notification issued by SWD to the complainants, the two clinics refused to provide them with vaccination service.

5. The complainants considered DH unreasonable in refusing to provide them with free vaccination merely because the words “disability allowance” were not printed

on the letters issued by SWD. They also criticised SWD for failing to coordinate with DH and issue documentary proof to CSSA recipients like them for verifying that they were persons with disabilities in receipt of the DA.

Our Findings

Response from DH

Vaccination Schemes

6. To reduce the risks of seasonal influenza infection and prevent its complications, the Government provides seasonal influenza vaccination for designated high-risk individuals every year, either free of charge (including the Government Vaccination Programme) or in a subsidised form (the Vaccination Subsidy Scheme) (collectively referred to as “Vaccination Schemes”).

7. According to recommendations of the Scientific Committee on Vaccine Preventable Diseases, the Government has covered a number of high-risk groups under the Vaccination Schemes, including children aged below 12, residents living in residential care homes for the elderly, persons aged 50 or above, persons with chronic health conditions, pregnant women, healthcare personnel and poultry industry workers.

8. Since the influenza season in 2016/17, under the direction of the Food and Health Bureau (“FHB”) and taking into account that the self-care ability of persons with disabilities is relatively lower, the Government, from October 2016, has included persons receiving DA (“DA recipients”) as an eligible group under the Vaccination Schemes.

Liaison with SWD

9. DA is one of the allowances under the Social Security Allowance Scheme operated by SWD. DH stated that during the process of planning and executing the above policy directive of FHB in mid-2016, it liaised with SWD by email and telephone. According to the relevant email records and memory of its staff, DH, in June 2016, suggested issuing a letter to DA recipients, which was to be dispatched by SWD on behalf of DH. DA recipients could present the letter to public or private healthcare institutions enrolled in the Schemes as a proof of their identity. However, SWD rejected the suggestion on the grounds of protecting personal data, and suggested that

healthcare personnel confirm the identity of DA recipients by checking the amounts of DA credited to their accounts as shown on their monthly bank statements.

10. DH considered that it would entail enormous difficulty in actual practice if healthcare personnel were required to check the monthly bank statements of individual accounts presented in various forms, and to take note of the amounts of DA that could be adjusted from time to time. Subsequently, DH realised that each DA recipient would receive a letter from SWD regarding the approval of DA. DH considered that letter a clearer and direct means for healthcare personnel to make verification, so DH eventually accepted it as the document for confirming the identity of DA recipients.

11. DH contended that it had never been brought to its attention that under SWD's existing mechanism some CSSA recipients, even though not granted DA separately, are actually also assessed as being 100% disabled, same as DA recipients. The complainants belong precisely to this category of recipients.

12. After commencement of our full investigation, DH liaised with SWD again and realised that under the existing mechanism, persons with disabilities are not entitled to both DA and CSSA, and they can only choose to apply for either one of those allowances. Following its discussion with FHB, DH agreed that CSSA recipients who are 100% disabled belong to the same high-risk group for influenza as DA recipients, and should equally receive free or subsidised vaccination as DA recipients.

13. Subsequently, DH sought further information from SWD on how healthcare personnel can confirm the identity of persons with disabilities from the notification of assistance issued by SWD to CSSA recipients who are 100% disabled. However, the notification of successful application for CSSA currently issued by SWD also set out such information as other grants or other family members of the recipients. Hence, frontline healthcare personnel can hardly rely on that letter to verify the identity of recipients who are 100% disabled.

DH's Overall Comments

14. During the process of communication with SWD on how to verify the identity of DA recipients, DH was never advised by SWD that some CSSA recipients are actually also assessed as being 100% disabled, same as DA recipients. As a result, DH could not cover this group of persons under the Vaccination Schemes.

15. DH considered that SWD's collaboration is necessary for inclusion of CSSA recipients who are 100% disabled under the Vaccination Schemes. SWD has to issue, or dispatch on behalf of DH, documentary proof of their eligibility for facilitating their uptake of free or subsidised vaccination. DH would continue to liaise with SWD for a solution to implement the above measure as soon as possible.

Response from SWD

Eligibility Criteria of DA

16. DA is one of the allowances under the Social Security Allowance Scheme. To be eligible for DA, applicants must not be receiving the CSSA. Persons with disabilities who are already receiving the CSSA cannot apply for DA, but they are entitled to the standard rate, payable on a household basis, applicable to persons who are 100% disabled under the CSSA Scheme. The criteria for assessing the applicants' level of disabilities are the same under the DA and CSSA Schemes.

Consultation regarding Vaccination Schemes

17. Between February and April 2016, CHP under DH contacted SWD, indicating that it was studying the feasibility of extending the Vaccination Schemes to cover DA recipients as an eligible group. At the request of CHP, SWD provided the relevant information as follows:

- (1) a list of Community Rehabilitation Day Centres ("CRDCs") of different types and nature;
- (2) the number of users of the above CRDCs who were receiving DA; and
- (3) sample notification of successful application for DA and revision of DA.

18. In June 2016, CHP informed SWD that it would make a public announcement on the inclusion of DA recipients under the Vaccination Schemes. CHP explored the feasibility of seeking assistance from SWD to issue documentary proof of eligibility to them. Given that DA recipients provided SWD with their personal data for the purpose of applying for DA, SWD considered the above method might be improper and in breach of the Personal Data (Privacy) Ordinance.

19. SWD suggested that CHP could consider taking reference from the practice of the Elderly Dental Assistance Programme under the Community Care Fund, which accepted DA recipients to present their passbooks or bank statements showing the monthly assistance received, thereby confirming their eligibility for DA.

20. On 29 July 2016, CHP sent an email to SWD asking for the numbers of DA recipients and CSSA recipients belonging to the disability category, with breakdown by age group and living condition. On 5 October 2016, SWD replied CHP by email to provide the information requested, and explained that the numbers including CSSA recipients who were 100% disabled.

21. After receiving the relevant information, CHP did not make any further enquiry with SWD. In mid-October 2016, CHP informed SWD that it would announce through press release the extension of the Vaccination Schemes to cover persons with intellectual disability living within the community and DA recipients.

SWD's Overall Comments

22. SWD remarked that during the entire process of consultation, CHP had never indicated that it would consider covering CSSA recipients who are 100% disabled under the Schemes. It was not until the meeting with CHP on 29 March 2019 (see the next paragraph) that SWD was informed that CHP was studying the feasibility of implementing such an arrangement.

23. On 29 March and 16 April 2019, SWD and CHP held meetings to explore how frontline healthcare personnel can verify the identity of CSSA recipients who are 100% disabled if the Vaccination Schemes are extended to cover them. At present, the allowance under the CSSA Scheme is calculated on a household basis, so the notification will only set out the total entitlement of the whole family and the names of all eligible family members, without any details on the level of disabilities of individual members.

24. SWD suggested that CHP can consider accepting other documentary proof presented by CSSA recipients who are 100% disabled, such as the Registration Card for People with Disabilities, or the personalised Octopus card for persons with disabilities status issued in connection with the Government Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities, which can allow frontline healthcare personnel to verify their identity as persons with disabilities.

25. SWD indicated that if the Vaccination Schemes are extended to cover CSSA recipients who are 100% disabled, it will work out the operational details with DH.

Our Comments

26. Taking into account the risks of complications caused by seasonal influenza infection and the relatively low self-care ability of persons with disabilities (which makes them a high-risk group for influenza), the Government has included DA recipients as an eligible group under the Vaccination Schemes (see **paras. 6 to 8**). We consider that the Government should subsidise persons with disabilities given that they belong to a high-risk group for influenza. Whether they are receiving the DA or not should not have any implication on their eligibility for free or subsidised vaccination.

27. We believe that DH had presumed that most persons with disabilities would have applied for DA, and so at that time adopted a relatively simple and direct way of accepting DA recipients to present the notification of successful application for DA issued by SWD for frontline healthcare personnel to confirm their identity (see **para. 10**). However, this practice fails to cater for the situation of CSSA recipients who are 100% disabled, because under the existing public welfare mechanism they are not entitled to DA at the same time (see **para. 16**) and are unable to present such notification.

28. Regarding the omission above, DH explained that when it enquired with SWD in June 2016, it was never informed by SWD that some CSSA recipients are actually also assessed as being 100% disabled, same as DA recipients. As a result, DH could not cover this group of persons under the Vaccination Schemes (see **para. 14**).

29. Nevertheless, SWD disagreed with DH's claim. SWD stated that it had provided DH with the relevant information in its reply dated 5 October 2016 (see **para. 20**). From the aforesaid email reply provided by SWD, CHP should have become aware that some CSSA recipients are also assessed as being 100% disabled, but it did not make any further enquiry with SWD. We, therefore, consider that DH can hardly shift the blame for the omission.

30. We also consider that SWD played the role of a consulted party in this incident, and it had already provided CHP with information upon its request.

Conclusion

31. Based on the analysis in **paragraphs 26 to 30**, The Ombudsman considers the complaint against **DH substantiated**, and the complaint against **SWD unsubstantiated**.

Recommendation

32. We recommend that DH, jointly with SWD, implement as soon as possible a solution for issuing a documentary proof for CSSA recipients who are 100% disabled.

SWD's Response to Draft Investigation Report

33. SWD has no comment on the conclusion of our investigation.

Paragraph 32

34. SWD indicated that if the Vaccination Schemes are extended to cover CSSA recipients who are 100% disabled, it will endeavour to assist in verifying their eligibility for the vaccination. Persons in need can contact their Social Security Field Unit for issuing a document to prove that they are 100% disabled.

DH's Response to Draft Investigation Report

35. DH stressed that when it liaised with SWD on how to verify the identity of DA recipients in early 2016, it had all along presumed that the category of DA recipients already covers all persons who are severely disabled and in receipt of the relevant allowance from SWD. During the liaison period, DH never learned from SWD that apart from the DA, there are other allowances granted by SWD in relation to severe disabilities (such as the standard rate applicable to persons who are 100% disabled under the CSSA Scheme); and that persons in receipt of those allowances are not entitled to DA at the same time and hence are unable to present such notification.

Paragraph 20

36. Regarding SWD's remark that its email dated 5 October 2016 already advised that CSSA recipients included persons who are 100% disabled, DH explained that in the middle of every year, it would invite different departments (including SWD) to provide the population of various target groups under the influenza vaccination schemes for

facilitating the statistical analysis of the uptake rate of influenza vaccines at year end. According to this standard practice, DH sent an email on 29 July 2016 to SWD asking for the number of CSSA recipients belonging to the disability category, in order to estimate the number of CSSA recipients with chronic health conditions as a statistical basis for the uptake rate of influenza vaccines among this group of persons. It was not because DH had been aware that apart from DA recipients, there are other persons who are 100% disabled under the CSSA Scheme.

37. DH stated that although SWD had explained when providing the statistics that the number included CSSA recipients who were 100% disabled, it would be difficult for DH to understand SWD's policies and systems if SWD did not elaborate on the relationship between different allowances, let alone raise relevant questions with SWD. Consequently, at that time DH did not specifically ask SWD whether there are other recipients who are also 100% disabled apart from DA recipients.

38. DH reiterated that the lack of proper information had hindered it from exploring whether CSSA recipients who are 100% disabled should be included under the Vaccination Schemes, resulting in the two complainants in this case not getting vaccination service in a timely manner.

Paragraph 24

39. Regarding SWD's suggestion of accepting the Registration Card for People with Disabilities, or the personalised Octopus card for persons with disabilities status as identity proof, DH found the suggestion not feasible after contacting the Labour and Welfare Bureau and relevant organisations. This is because the level of disabilities required for application of the Registration Card for People with Disabilities is lower than that of DA recipients and CSSA recipients who are 100% disabled. Besides, the personalised Octopus card for persons with disabilities status is not different in outward appearance from the personalised Octopus card in general, and there is no special serial number either. Frontline healthcare personnel cannot rely on the card to verify the identity of persons who are 100% disabled.

40. Furthermore, SWD suggested on 14 June 2019 that DH could consider requesting CSSA recipients who are 100% disabled to obtain documentary proof from SWD prior to vaccination if they want to receive free or subsidised vaccination. In response, DH considered such an arrangement inconvenient for the public and not a satisfactory solution.

Paragraph 32

41. DH is in liaison with SWD for a feasible solution.

Our Further Comments on DH's Response to Draft Investigation Report

42. As stated in **paragraph 35**, DH, based on its understanding, presumed that the inclusion of DA recipients under the Vaccination Schemes would be sufficient to cover all persons with disabilities. However, as we have pointed out in **paragraph 26**, the policy aims at helping persons with disabilities who belong to a high-risk group for influenza. Whether they are receiving the DA or not should not have any implication on their eligibility for free or subsidised vaccination.

43. Moreover, DH contacted SWD mainly for requesting SWD to assist in providing DA recipients with documentary proof of their eligibility (see **para. 10**). DH did not consult SWD for its opinion on the policy of FHB in deciding to include persons with disabilities as a target group under the Vaccination Schemes and its specific implementation arrangements. Besides, SWD was not the major department responsible for the Vaccination Schemes and only provided information and collaborated at the request of CHP. Therefore, we find it unreasonable for DH to explain that it has not covered CSSA recipients who are 100% disabled under the Vaccination Schemes because SWD did not inform it of the two relevant items of information, which also smacks of an attempt to shift responsibility.

44. After considering DH's response to SWD's remark that it has already advised that CSSA recipients include persons who are 100% disabled (see **paras. 36 and 37**), we are still of the view that CHP should have noticed that apart from DA recipients, some CSSA recipients are also 100% disabled. That CHP did not realise that its understanding regarding DA recipients was incorrect indicated its lack of awareness and failure to take proactive action to further consult SWD or follow up the matter more thoroughly.

Concluding Remarks

45. Overall, we maintain our conclusion in **paragraph 31** and our recommendation in **paragraph 32**.

Office of The Ombudsman
August 2019