

Social Security Appeal Board

Thirtieth Annual Report

2007/2008

(1 April 2007 - 31 March 2008)

CONTENTS

	Paragraph
I. INTRODUCTION	1 - 4
II. THE BOARD	
Terms of Reference	5
Membership	6
Board Meetings	7 - 8
III. WORK OF THE BOARD	
Handling of Complaints and Enquiries	9 - 13
Number of Appeals	14 - 17
Appeals involving Medical Decisions	18 - 19
Place for Lodging Appeals	20 - 21
Handling of Appeals	22 - 24
Result of Appeals	25 - 26
Time Frame for Handling of Appeals	27
Post-appeal Follow-up	28
Publicity	29 - 30
IV. ACKNOWLEDGEMENT	31

APPENDICES

- | | |
|------------|-------------------------------------------------------------------------------------------------|
| APPENDIX 1 | Functions of the Board and Appeal Procedures |
| APPENDIX 2 | Analysis of Complaints Received |
| APPENDIX 3 | Analysis of Appeals Received |
| APPENDIX 4 | Breakdown of Comprehensive Social Security Assistance Appeals Received by Nature of Case |
| APPENDIX 5 | Breakdown of Social Security Allowance Appeals Received by Nature of Case or Disability Claimed |

I. INTRODUCTION

The Social Security Appeal Board (the Board) was set up on 15 April 1978 as an independent body to provide a means of redress for any person not satisfied with the decision of the Social Welfare Department in respect of eligibility and payment of social security benefits.

2. The Chairman and Members of the Board are all non-officials appointed by the Chief Executive of the Hong Kong Special Administrative Region. The Government provides the Board with office premises and a team of staff from the Social Welfare Department offering secretarial services to the Board and maintaining its records. The head of the team is appointed as Secretary to the Board.

3. The Board deals with appeals lodged by persons applying for, or in receipt of, Comprehensive Social Security Assistance, Social Security Allowance or Traffic Accident Victims Assistance, against the decisions of the Social Welfare Department. Detailed functions of the Board and the appeal procedures are outlined in Appendix 1.

4. This report describes the work of the Board during the year ending 31 March 2008.

II. THE BOARD

Terms of Reference

5. The terms of reference of the Board are : -
- (i) to consider individual appeals against the decisions of the Social Welfare Department on eligibility and payment of social security benefits; and
 - (ii) to publish an annual report on the work of the Board.

Membership

6. The Board consists of the Chairman and six members. Its membership as at 31 March 2008 was : -

Chairman	:	Miss CHAN Mei-lan, Anna May, M.H.	(陳美蘭女士)
Member	:	Dr CHEUNG Suk-ye, Polly	(張淑儀醫生)
		Mr NG Siu-wing, Ludwig	(伍兆榮先生)
		Mr IP Tin-yau	(葉天佑先生)
		Miss YU Lai-fan, CECom	(余麗芬女士)
		Dr IP Pui-seung, Shirley	(葉珮嫦醫生)
		Mr WAN Kwok-hung, Joseph, CECom	(溫國雄先生)

Board Meetings

7. Board meetings are held to consider appeals lodged by the appellants. These meetings are normally attended by the Chairman and two members. Members of the Board therefore work on a roster system.

8. The main duties of the members sitting at a Board meeting are to hear the representations of the appellants, to consider explanations given by the Social Welfare Department, to analyse cases and, finally, to make decisions on the appeals. Where the three members are unable to reach a consensus on an appeal, the decision of the majority will be followed.

III. WORK OF THE BOARD

Handling of Complaints and Enquiries

9. One of the significant roles of the Board is to handle complaints about social security benefits. These complaints may not necessarily become appeals if they can be satisfactorily resolved after explanations given by the staff of the Board or through an individual case review by the Social Welfare Department.

10. When a complaint is received, the Secretary to the Board or his staff will immediately contact the office concerned to initiate action. The supervisor of the office will then give explanations to clarify the situation or review the case as appropriate. If the complainant is satisfied and does not wish to pursue further, the case will be considered as settled. Otherwise, he will be assisted to lodge a formal appeal.

11. Complaints, which fall outside the scope of the Board, will be referred to the relevant offices of the Social Welfare Department or other government departments for appropriate action. All complaints are reported to the Chairman and Members of the Board for their information.

12. During the year, 164 complaints were received, of which three (2%) were settled by the staff of the Board, 159 (97%) were referred to the relevant offices for appropriate action and two (1%) eventually became appeals. An analysis of the complaints handled in the past three years is shown in the following table:

Complaints lodged at the Board Office

Type and nature of complaints	(A) Total no. of complaints			(B) Of (A), no. of complaints settled by the Board			(C) Of (A), no. of complaints referred to relevant offices			(D) Of (A), no. of complaints leading to appeals		
	2005/06	2006/07	2007/08	2005/06	2006/07	2007/08	2005/06	2006/07	2007/08	2005/06	2006/07	2007/08
Type of Complaints												
Comprehensive Social Security Assistance	148 (73%)	136 (75%)	115 (70%)	14 (9%)	5 (4%)	2 (2%)	133 (90%)	130 (96%)	113 (98%)	1 (1%)	1 (1%)	0 (0%)
Social Security Allowance	55 (27%)	44 (24%)	49 (30%)	10 (18%)	2 (5%)	1 (2%)	43 (78%)	41 (93%)	46 (94%)	2 (4%)	1 (2%)	2 (4%)
Traffic Accident Victims Assistance	0 (0%)	2 (1%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	2 (100%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)
TOTAL	203 (100%)	182 (100%)	164 (100%)	24 (12%)	7 (4%)	3 (2%)	176 (87%)	173 (95%)	159 (97%)	3 (1%)	2 (1%)	2 (1%)
Nature of Complaints												
Refusal of any payment	67 (33%)	60 (33%)	72 (44%)	14 (21%)	3 (5%)	0 (0%)	51 (76%)	56 (93%)	70 (97%)	2 (3%)	1 (2%)	2 (3%)
Amount of payment offered	70 (34%)	45 (25%)	48 (29%)	6 (9%)	1 (2%)	1 (2%)	63 (90%)	43 (96%)	47 (98%)	1 (1%)	1 (2%)	0 (0%)
Date from which payment was offered	4 (2%)	3 (2%)	2 (1%)	0 (0%)	0 (0%)	0 (0%)	4 (100%)	3 (100%)	2 (100%)	0 (0%)	0 (0%)	0 (0%)
Issue of payment to a person other than the applicant	0 (0%)	0 (0%)	1 (1%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1 (100%)	0 (0%)	0 (0%)	0 (0%)
Delay of payment	0 (0%)	1 (1%)	1 (1%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	1 (100%)	1 (100%)	0 (0%)	0 (0%)	0 (0%)
Others	62 (31%)	73 (40%)	40 (24%)	4 (6%)	3 (4%)	2 (5%)	58 (94%)	70 (96%)	38 (95%)	0 (0%)	0 (0%)	0 (0%)
TOTAL	203 (100%)	182 (100%)	164 (100%)	24 (12%)	7 (4%)	3 (2%)	176 (87%)	173 (95%)	159 (97%)	3 (1%)	2 (1%)	2 (1%)

13. Apart from complaints, the Board received a large number of enquiries about social security benefits and other welfare services administered by the Social Welfare Department. These enquiries were, as far as possible, answered by the staff of the Board or referred to the relevant offices for appropriate action.

Number of Appeals

14. During the year, the Board received a total of 368 appeals (including 366 direct appeals and two converted from complaints), representing an increase of one appeal or 0.3% as compared with the preceding year.

15. These 368 appeals included 103 Comprehensive Social Security Assistance cases, 264 Social Security Allowance cases and one Traffic Accident Victims Assistance case. A 3-year comparison is as follows: -

Type of cases	Appeals					
	2005/06		2006/07		2007/08	
	No.	%	No.	%	No.	%
Comprehensive Social Security Assistance	82	28	128	35	103	28
Social Security Allowance	211	71	239	65	264	71
Traffic Accident Victims Assistance	2	1	0	0	1	1
TOTAL	295	100	367	100	368	100

16. As compared with the previous year, there was a decrease of 25 appeals (20%) in Comprehensive Social Security Assistance cases, an increase of 25 appeals (10%) in Social Security Allowance cases and an increase of one appeal (100%) in Traffic Accident Victims Assistance case.

17. Of the 264 Social Security Allowance appeals, 182 were related to Normal Disability Allowance, 81 to Higher Disability Allowance, and one to Higher Old Age Allowance. Among the 263 Disability Allowance appeals, 187 were lodged against the refusal of payment on medical grounds (i.e. ineligibility for the allowance as certified by the medical authorities concerned) and 76 against the amount of payment on medical grounds (i.e. ineligibility for disability allowance at a higher rate). The one Higher Old Age Allowance case was lodged against the refusal of payment due to failure to meet the one-year-continuous-residence rule.

Appeals involving Medical Decisions

18. Where an appeal concerning a medical assessment done by a doctor of a public hospital/clinic is made, the Board will arrange with the Hospital Authority for the applicant/recipient to undergo a medical re-assessment to be processed by the Medical Assessment Board for social security appeals. This Medical Assessment Board is an independent board and its members consist of doctors from the public and private sectors, who work for the board on a roster basis.

19. During the year, a total of 402 cases (comprising 100 Comprehensive Social Security Assistance cases, 205 Normal Disability Allowance cases and 97 Higher Disability Allowance cases) were referred to the Medical Assessment Board for assessment. A number of public doctors and 11 private doctors, namely, Dr HO Chung-ping, Dr LEE Ka-yan, David, Dr CHOI Sum-hung, Dr CHOO Kwong-yin, Dr PAK Wai, Martin, Dr WAI Heung-wah, Dr WONG Pit-see, Dr TSE Yun-tin, Paul, Dr TAM Mo-shing, Paul, Dr SHUM Ping-shiu and Professor Rosie YOUNG assisted in assessing these 402 medical appeal cases.

Place for Lodging Appeals

20. An appellant can lodge an appeal at any one of the following offices : -
- (i) the Office of the Board,
 - (ii) the Headquarters of the Social Welfare Department,
 - (iii) the Traffic Accident Victims Assistance Section, or
 - (iv) any of the 37 social security field units.

21. A statistical breakdown in terms of place for lodging appeals is shown below :-

Place for lodging appeals	Appeals					
	2005/06		2006/07		2007/08	
	No.	%	No.	%	No.	%
Office of the Board	11	4	26	7	26	7
Social Security Field Units	282	95	341	93	341	92
Traffic Accident Victims Assistance Section	2	1	0	0	1	1
TOTAL	295	100	367	100	368	100

(Note : No appeal was lodged at the Headquarters of the Social Welfare Department.)

Handling of Appeals

22. Of the 368 appeals received in the year, 255 were completed, 47 withdrawn by the appellants and 66 carried forward to the year 2008/09 pending hearing by the Board as well as medical assessment and result of the Medical Assessment Board. The following table shows the overall position : -

Type of cases	Number of Appeals			
	Received in 2007/08	Decided	Withdrawn	Carried forward to 2008/09
Comprehensive Social Security Assistance	103	71	21	11*
Social Security Allowance	264	184	26	54**
Traffic Accident Victims Assistance	1	0	0	1***
TOTAL	368	255	47	66

* comprising four cases pending medical assessment; five cases pending result of the medical assessment and two cases pending board hearing

** comprising 33 cases pending medical assessment and 21 cases pending result of the medical assessment

*** one case pending medical assessment

23. During the year, the Board decided a total of 409 cases, of which 154 were brought forward from the year 2006/07. No Board decision was required for 18 cases brought forward from the previous year due to the appellants' withdrawal of the appeals. A statistical breakdown in terms of type of cases decided is shown below: -

Type of cases	Appeals decided					
	2005/06		2006/07		2007/08	
	No.	%	No.	%	No.	%
Comprehensive Social Security Assistance	52	30	103	32	109	27
Social Security Allowance	118	69	209	67	300	73
Traffic Accident Victims Assistance	2	1	1	1	0	0
TOTAL	172	100	313	100	409	100

24. Among the 409 cases decided, 403 were appeals involving the result of a medical assessment and six were non-medical appeals. All these 403 medical appeals were decided by the Board on the basis of the decision of the Medical Assessment Board. In respect of the six non-medical appeals, hearings were conducted at the Office of the Board. The appellants were notified of the hearings beforehand, all of them attended the hearings in person.

Result of Appeals

25. Of the 409 appeals decided during the year, the Board confirmed the decisions of the Social Welfare Department in 268 cases (66%) and varied its decisions in 141 cases (34%). For the 141 cases with decision in favour of the appellants, all cases appealed against a medical decision (including 43 Normal Disability Allowance cases, 53 Higher Disability Allowance cases and 45 Comprehensive Social Security Assistance cases). A breakdown of cases by nature and by type is given below: -

Type of Appeals Nature of Appeals	Cases where SWD's decisions were confirmed				Cases where SWD's decisions were changed			
	Compre-hensive Social Security Assistance	Social Security Allowance	Traffic Accident Victims Assistance	Total	Compre-hensive Social Security Assistance	Social Security Allowance	Traffic Accident Victims Assistance	Total
	No.	No.	No.	No.	No.	No.	No.	No.
Refusal of payment	41	156	0	198	33	46	0	79
Amount of payment offered	23	47	0	70	12	50	0	62
Date from which payment was offered	0	1	0	0	0	0	0	0
Issue of payment to a person other than the applicant	0	0	0	0	0	0	0	0
TOTAL	64	204	0	268	45	96	0	141

26. A comparison of the relevant figures over the past three years is provided as follows:

Type of cases	Cases where SWD's decisions were confirmed			Cases where SWD's decisions were changed		
	2005/06	2006/07	2007/08	2005/06	2006/07	2007/08
	No.	No.	No.	No.	No.	No.
Comprehensive Social Security Assistance	38	73	64	14	30	45
Social Security Allowance	95	153	204	23	56	96
Traffic Accident Victims Assistance	2	0	0	0	1	0
TOTAL	135	226	268	37	87	141

Time Frame for Handling of Appeals

27. An appeal not involving a medical assessment is normally heard within one month from the date of receipt of the appeal by the Board. All appellants of any appeal will be notified in writing of the decision of the Board within three weeks after the hearing or receipt of the decision of the Medical Assessment Board. During the year, all the appeals were completed within the specified time limit.

Post-appeal Follow-up

28. As a standing practice, in addition to giving a written notification of its decision to the appellant, the Board will notify the office concerned and the Headquarters of the Social Welfare Department of its decision in writing after each appeal is completed. To ensure that appropriate follow-up action is taken by the Department, the Board will monitor the progress of those appeals where the original decision of the Department has been varied.

Publicity

29. Publicity is arranged through the displaying of posters at the reception area of the Traffic Accident Victims Assistance Section and each of the 37 social security field units. Members of the public can get information about the appeal system and the work of the Board from the explanatory leaflets available for distribution at these offices as well as the Headquarters of the Social Welfare Department and the Office of the Board. They can also find detailed information about the Board and download the application forms for appeal from the homepage of the Social Welfare Department (<http://www.swd.gov.hk>).

30. It is a standard practice of the Social Welfare Department that whenever a person is notified in writing of the result of his/her application for social security benefits, he/she will at the same time be informed of his/her right to appeal to the Board if he/she is dissatisfied with the Department's decision.

IV. ACKNOWLEDGEMENT

31. On behalf of the Board, I wish to express my appreciation of the assistance and support given by the Director of Social Welfare and staff of the Social Welfare Department, the Chief Executive and staff of the Hospital Authority and other parties concerned. Special thanks are extended to members of the Medical Assessment Board for social security appeals, who assisted in the processing of appeals during the year under review.

Miss CHAN Mei-lan, Anna May, M.H.
Chairman

Functions of the Board and Appeal Procedures

Scope of Work

The Board deals with appeals under the Comprehensive Social Security Assistance, Social Security Allowance (comprising Old Age Allowance and Disability Allowance) and Traffic Accident Victims Assistance Schemes.

2. The following categories of persons have the right of appeal : -

- (a) an applicant for or a recipient of social security benefit under any one of the above-mentioned schemes (the person may delegate his next-of-kin through the power of attorney to lodge the appeal on his behalf);
- (b) an appointee acting on behalf of a minor or a mentally handicapped applicant or recipient;
- (c) the executor or the administrator, as proven by the production of "probate" or "letters of administration" granted respectively by the Court as evidence that he is a lawfully appointed personal representative of the deceased applicant or recipient; and
- (d) the Official Administrator (the Registrar of the Court) administering the estate of the deceased applicant or recipient in a summary manner.

3. An appellant may appeal against a decision of the Director of Social Welfare in respect of any of the following matters : -

- (a) the refusal of any payment;
- (b) the amount of payment offered;
- (c) the date from which payment was offered; and
- (d) the issue of payment to a person other than the applicant.

Appeal Procedures

4. To lodge an appeal, the appellant should complete an appeal form (in either English or Chinese) and forward it to one of the following offices : the Office of the Board, the Headquarters of the Social Welfare Department, the Social Security Field Unit concerned, or the Traffic Accident Victims Assistance Section. Appeal forms are obtainable at any of these offices. The form can also be downloaded from the Social Welfare Department homepage (<http://www.swd.gov.hk>).

5. An appeal by an applicant, a recipient (or his next-of-kin appointed through the power of attorney) or an appointee must be lodged within four weeks immediately following the date of notification of the decision from the Director of Social Welfare. An appeal by the personal representative of a deceased applicant or recipient must be lodged within four weeks from the date of a grant of "probate" or "letters of administration" by the Court. In the case of summary administration by the Official Administrator, an appeal must be lodged within four weeks from the date of the getting in of the estate. The Chairman of the Board may allow late appeals if he considers that there were acceptable reasons for the delay.

6. If the appellant wishes to withdraw his/her appeal, he/she should complete and sign a withdrawal form to be obtainable from the offices mentioned in paragraph 4 above.

Departmental Reviews

7. When an appeal is received, the Secretary to the Board will examine the case. If it appears to him that there are sufficient grounds for a departmental review before the case is submitted to the Board, he will ask the supervisor of the Social Security Field Unit concerned or the Traffic Accident Victims Assistance Section to review the case. If the supervisor decides to vary the decision, the appellant will be notified in writing of the new decision as well as his right to appeal against it. If the applicant is satisfied with the new decision, he may withdraw the appeal. If he remains dissatisfied, he may appeal against the new decision. If he chooses not to appeal again, the case will not be referred to the Board, which will, nevertheless, be informed of what has occurred.

Processing of appeals

Appeals not involving the result of a medical assessment

8. The Board will normally hear the case within one month from the date of receipt of appeal.

9. Both the appellant and the Director of Social Welfare are given the opportunity to present their case in writing prior to the hearing.

10. At the hearing, the appellant may choose to put forward his case personally and, subject to the appellant's request in writing and the consent of the Board, a friend or relative may also speak on his behalf. The Director of Social Welfare may also be represented at the hearing. No other persons will be allowed to be present at the hearing, and there will be no legal representation.

11. Hearings are informal and conducted in a language convenient to the appellant.

Appeals involving the result of a medical assessment

12. The Board will arrange with the Hospital Authority for the applicant or recipient to undergo a medical assessment to be processed by a Medical Assessment Board.

Decisions of the Board

13. The Board will either confirm the decision appealed against or vary that decision provided that such a decision conforms to approved social security policy.

14. Except for appeals which require the decision of a Medical Assessment Board, the Board will reach a decision on an appeal on the basis of the facts presented to the Board. Its decision on a particular case will not constitute a precedent either for the Director of Social Welfare or for other cases coming before the Board.

15. In respect of appeals which require the decision of a Medical Assessment Board, the Board will give its decision on the basis of the decision of the Medical Assessment Board.

16. The decision of the Board is final and the appellant has no further right of appeal. The Board, however, has the right to review its own decision when necessary.

Notification of Decisions

17. In respect of appeals which do not require the decision of a Medical Assessment Board, the appellant and the Director of Social Welfare will be notified in writing of the decision of the Board normally within three weeks after the hearing. The Chairman of the Board may give reasons for the Board's decision if he so wishes, but is not obliged to do so.

18. In respect of appeals which require the decision of a Medical Assessment Board, the appellant and the Director of Social Welfare will be notified in writing of the decision of the Board normally within three weeks after the receipt of the decision of the Medical Assessment Board.

Travelling Expenses for Appellants

19. Appellants may claim reimbursement of travelling expenses incurred in lodging appeals at the Board and in attending Board hearings at the Office of the Board. The amount of fares they can claim is limited to that charged by the cheapest mode of transport. However, claims in respect of a more expensive form of transport may be allowed for disabled appellants or appellants with mobility difficulties.

APPENDIX 2

Analysis of Complaints Received

Nature of Complaints	Number of Complaints				Percentage
	Comprehensive Social Security Assistance	Social Security Allowance	Traffic Accident Victims Assistance	Total	
Refusal of any payment	47	25	0	72	44%
Amount of payment offered	36	12	0	48	29%
Date from which payment was offered	1	1	0	2	1%
Issue of payment to a person other than the applicant	0	1	0	1	1%
Delay of payment	0	1	0	1	1%
Others	31	9	0	40	24%
Total	115	49	0	164	100%

Analysis of Appeals Received

Nature of Appeals	Number of Appeals							
	Comprehensive Social Security Assistance		Social Security Allowance		Traffic Accident Victims Assistance		Total and Percentage	
	Medical Decision	Others	Medical Decision	Others	Medical Decision	Others	Medical Decision	Others
Refusal of any payment	57	11	187	1	0	0	244	12
Amount of payment offered	30	3	76	0	1	0	107	3
Date from which payment was offered	0	1	0	0	0	0	0	1
Issue of payment to a person other than the applicant	1	0	0	0	0	0	1	0
Sub-total	88	15	263	1	1	0	352 (96%)	16 (4%)
TOTAL	103		264		1		368 (100%)	

**Breakdown of Comprehensive Social Security Assistance
Appeals Received by Nature of Case**

Nature of Case		No. of Appeals		Percentage
Old Age		28		27%
Permanent Disabilities	Blind	0	12	11%
	Deaf	1		
	Physically Disabled	7		
	Mentally Ill/Mentally Retarded	4		
Temporary Disabilities/Ill Health		42		41%
Single Parent Family		10		10%
Economic Circumstances	Low Earnings	3	11	11%
	Unemployment	8		
Others		0		0%
TOTAL		103		100%

**Breakdown of Social Security Allowance
Appeals Received by Nature of Case or Disability Claimed**

Nature of Case		No. of Appeals		Percentage
		Higher Disability Allowance	Normal Disability Allowance	
I.	Disability Allowance			
	A. Disabling physical condition or blindness			85%
	(i) loss of functions of two limbs	11	4	
	(ii) loss of functions of both hands, or all fingers and both thumbs	0	0	
	(iii) loss of functions of both feet	0	2	
	(iv) total loss of sight	1	6	
	(v) total paralysis (quadriplegia)	0	0	
	(vi) paraplegia	0	0	
	(vii) illness, injury or deformity resulting in being bedridden	0	0	
	(viii) any other conditions resulting in total disablement	61	141	
B. Disabling mental condition (which produces a degree of disability broadly equivalent to that in Category A above)			12%	
(i) organic brain syndrome	1	0		
(ii) mental retardation	3	5		
(iii) psychosis	0	6		
(iv) neurosis	2	5		
(v) personality disorder	0	1		
(vi) any other conditions resulting in total mental disablement	2	7		
C. Profoundly deaf	0	5	2%	
D. Others	0	0	0%	
	Sub-total	81	182	99%
II. Old Age Allowance		1		1%
TOTAL		264		100%