
STATUTORY INSTRUMENTS

2012 No. 3098

The Civil Legal Aid (Procedure) Regulations 2012

PART 8

Exceptional Cases

General

66.—(1) This Part makes provision about the making and withdrawal of determinations under section 10 of the Act about exceptional cases.

(2) Except as provided in this Part—

- (a) determinations under section 10 of the Act must be made and withdrawn in accordance with the provisions of these Regulations which apply to the form of civil legal services which is the subject of the application; and
- (b) Part 4 (Licensed Work), applies to other legal services.

(3) The provisions in these Regulations about—

- (a) appeals;
- (b) review (other than in this Part); and
- (c) emergency representation,

do not apply to the making and withdrawal of determinations under section 10 of the Act.

(4) Regulations 23(1)(c) and (d) and 31(4)(c) and (d) do not apply to the making and withdrawal of determinations under section 10 of the Act.

The application

67.—(1) Where the civil legal services which are the subject of an application are described in a category in the Category Definitions that form part of the 2010 Standard Civil Contract or 2013 Standard Civil Contract, the application must specify—

- (a) the category within which the civil legal services are described; and
- (b) if the individual has identified a proposed provider, a provider with whom the Lord Chancellor has made an arrangement under section 2(1) of the Act for the provision of services which fall within the category specified in the application (unless the effective administration of justice test is satisfied).

(2) An application for a determination under section 10 of the Act must—

- (a) be made to the Director in writing in a form specified by the Lord Chancellor and signed by the individual and any proposed provider; and
- (b) state whether it is proposed that the services should be provided as Controlled Work, Licensed Work or under an individual case contract.

Determinations

68.—(1) A determination under section 10 of the Act may specify that the determination is to be treated as having effect from a date earlier than the date of the determination.

(2) Where the Director makes—

- (a) an exceptional case determination under section 10(2)(a) of the Act; or
- (b) a wider public interest determination under section 10(4)(b) of the Act,

the Director must provide written reasons for the determination and notice of any right of review.

Review

69.—(1) The individual may, in accordance with paragraph (2), apply for a review of—

- (a) a refusal to make a determination under section 10(2)(a) or 10(4)(b) of the Act;
- (b) a determination that an individual does not qualify for the services under section 10(2)(b) or 10(4)(c) of the Act;
- (c) an amendment of, or refusal to amend, a limitation or condition to which a determination under section 10(2)(b) or 10(4)(c) of the Act is subject; or
- (d) a withdrawal of a determination.

(2) Within fourteen days of receipt of a refusal, determination, amendment, or withdrawal described in paragraph (1) (a “decision”), the individual may—

- (a) apply to the Director for a review of the decision in a form specified by the Lord Chancellor; and
- (b) include written representations supporting that application.

(3) The Director must consider the application and any written representations and may—

- (a) confirm or amend the decision which is the subject of the review; or
- (b) substitute a new decision.

(4) Where the decision which is the subject of the review was the withdrawal of a determination and, following the review, the Director substitutes a determination for that withdrawal, the determination takes effect (unless the Director directs otherwise) as if the original decision had not been made.

(5) The Director must ensure that a certificate accurately records the civil legal services for which the individual qualifies following the review (unless the services are to be provided as Controlled Work).

(6) The Director must notify the individual and the provider or proposed provider identified in the individual’s application of the decision following the review.