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STATUTORY INSTRUMENTS

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**2001 No. 3750**

The Family Health Services Appeal  
Authority (Procedure) Rules 2001

PART III

APPLICATIONS TO THE FHSAA

(A)

MAKING AN APPLICATION

**Applications in respect of contingent removal decisions**

**15.**—(1) The following paragraphs apply to any application under section 49M(5)(a) of the 1977 Act in respect of a contingent removal decision.

(2) Subject to paragraph (4), the first application in respect of such a decision shall not be made until three months have elapsed since the contingent removal decision was made.

(3) Subject to paragraph (4), any further application in respect of the same contingent removal decision shall not be made until six months have elapsed since the FHSAA gave its last decision in respect of such application or further application.

(4) Where the parties wish to apply jointly to the FHSAA with a view to seeking—

- (a) the same variation of conditions,
- (b) the same imposition of different conditions, or
- (c) for the contingent removal to be revoked,

the application shall be treated as being made by the Health Authority and may be made after a period of one month has elapsed since the FHSAA gave its decision in respect of an application to which either paragraph (2) or (3) applied.

**Applications to the FHSAA**

**16.**—(1) An applicant shall make an application in accordance with the following paragraphs.

(2) The application shall be in writing and shall state—

- (a) the name and address of the applicant and, where relevant, his professional registration number,
- (b) the name and address or addresses of the respondent and, where relevant, his professional registration number,
- (c) a concise statement of the grounds on which the application is made, and
- (d) the name and address of the representative of the applicant, if any, and whether the FHSAA should correspond with the representative concerning the application instead of with the applicant.

(3) The applicant or his representative shall sign the notice of application and shall send or deliver the application to the FHSAA within any time limit specified by or under the 1977 Act.

(4) The FHSAA shall acknowledge receipt of the application and shall inform the applicant or the applicant's representative of any further steps which must be taken to enable the FHSAA to decide the application and the time and place of any hearing in respect of the application.

#### **Documents and other material to accompany application**

17.—(1) The applicant shall send or deliver to the FHSAA with the application a copy of every document on which he intends to rely for the purposes of the application.

(2) The FHSAA may, on such terms as it thinks fit, excuse the applicant from providing any document required to be furnished under paragraph (1) where that document or a copy is already held by the FHSAA.

#### **Amendment of application and delivery of supplementary statement**

18.—(1) The applicant may, at any time before being notified of the date of the hearing of the application, amend the application or deliver a supplementary statement in relation to that application.

(2) The applicant may amend the application or supplementary statement with the leave of the panel at any time after being notified of the date of the hearing of the application, or at the hearing itself, and the panel may grant such leave on such terms as it thinks fit.

(3) The applicant shall send a copy of every amendment and supplementary statement to the FHSAA.

#### **Application for directions**

19.—(1) The applicant may apply to the FHSAA for directions to be given by a panel in respect of any matter relating to the hearing of the application.

(2) An application for directions shall be made in writing to the FHSAA.

#### **Withdrawal of application**

20. The applicant may—

- (a) at any time before the hearing of the application withdraw his application by sending to the FHSAA a notice stating that he withdraws it, signed by him or by his representative,
- (b) at the hearing of the application, with the leave of the panel, withdraw the application.

#### **Action of applicant on receipt of notice of hearing**

21.—(1) The FHSAA shall serve on the applicant a notice giving the time and place of any oral hearing which is to be held.

(2) When the applicant receives the notice of the time and place of hearing, he shall inform the FHSAA whether or not he intends to be represented at the hearing and whether or not he intends to call witnesses, and where he does intend to call witnesses, he shall supply their names and addresses to the FHSAA.

(3) If the applicant does not intend to attend or be represented at the hearing, he may send to the FHSAA additional written representations in support of his application.

### **Representation at hearing**

22. At the hearing of an application or any other hearing in connection with that application, including a hearing for directions, the applicant may conduct his case himself (with assistance from his representative if he wishes) or may appear and be represented by his representative or by Counsel.

(B)

### **REPLYING TO AN APPLICATION**

#### **Action by respondent on receipt of notice of application**

23.—(1) A person who receives from the FHSAA a copy of an application against him in accordance with rule 29(3) (“the respondent”) shall send or deliver to the FHSAA a written reply acknowledging receipt of that application and setting out—

- (a) his full name and address and, where applicable, his professional registration number;
- (b) the professional registration number of the applicant, where applicable;
- (c) whether or not he intends to resist the application and if so, a concise statement of the grounds on which he relies in resisting it;
- (d) the name and address and the profession of his representative, if any, and whether the FHSAA should send notices concerning the application to the representative instead of to the respondent.

(2) The respondent may include in his reply a request for further particulars of the application.

(3) Every such reply shall be signed by the respondent or his representative and shall be delivered to the FHSAA not later than 21 days after the date on which the notification of the application was sent to him by the FHSAA.

(4) A reply which is received by the FHSAA after the time appointed by this rule which contains reasons on which the respondent relies for justifying the delay shall be deemed to include an application for an extension of the time so appointed.

(5) A respondent who has not delivered a written reply shall not be entitled to take any part in the proceedings before the panel on the application except—

- (a) to apply for an extension of time for presenting a reply;
- (b) to apply for a direction that the applicant provide further particulars relevant to the application;
- (c) to be called as a witness by another party; and
- (d) to be sent a copy of a decision or corrected decision.

#### **Documents and other material to accompany reply**

24.—(1) The respondent shall send or deliver to the FHSAA with his reply a copy of every document on which he intends to rely at the hearing of the application.

(2) The FHSAA may, on such terms as it thinks fit, excuse the respondent from providing any document required to be furnished under paragraph (1) where that document, or a copy of it, is already held by the FHSAA.

#### **Amendment of reply and delivery of supplementary statement**

25.—(1) The respondent may, at any time before he is notified of the date of the hearing of the application, amend his reply or deliver a supplementary statement by way of reply.

(2) The respondent may amend any reply or supplementary statement with the leave of a panel at any time after he has been notified of the hearing of the application or at the hearing itself.

(3) The respondent shall send a copy of every amendment and supplementary statement to the FHSAA.

#### **Application for directions**

**26.**—(1) The respondent may apply to the FHSAA for directions to be given by a panel as to any matter relating to the hearing of the application for disqualification.

(2) An application for directions shall be made in writing to the FHSAA.

#### **Action of respondent on receipt of notice of hearing**

**27.**—(1) The FHSAA shall serve on a respondent who opposes the application a notice informing him of the time and place of any oral hearing which is to be held and such notice will include guidance regarding the rules of evidence and procedure which apply to the hearing.

(2) When the respondent receives the notice of the time and place of hearing, he shall inform the FHSAA whether or not he intends to attend or be represented at the hearing, and whether he intends to call witnesses, and where he does intend to call witnesses he shall supply their names and addresses to the FHSAA.

(3) If the respondent does not intend to attend or be represented at the hearing, he may send to the FHSAA additional written representations in support of his reply.

#### **Representation at hearing**

**28.** At the hearing of an application or any other hearing in connection with that application, including a hearing for directions, the respondent may conduct his case himself (with assistance from his representative if he wishes) or may appear and be represented by his representative or by Counsel.