
EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make provision about the proceedings of the Family Health Services Appeal Authority (“the FHSAA”), which is established with effect from 14th December 2001 by section 49S of and Schedule 9A to the National Health Service Act 1977 (“the 1977 Act”) inserted by section 27 of the Health and Social Care Act 2001.

Part I makes provision in respect of the citation and commencement of the Rules, and interpretation (rules 1 to 4).

Part II makes provision in respect of appeals to the FHSAA against certain decisions taken by Health Authorities.

In Part II(A), which applies to the appellant, there is provision for time limits within which certain appeals must be made (rule 5), for the giving of notice of appeal (rule 6), the amendment of an appeal and the adding of supplementary grounds to an appeal (rule 7), for the appellant to apply for directions in his case (rule 8), for the appellant to withdraw his appeal (rule 9), for the FHSAA to give the appellant notice of the hearing (rule 10) and about representation of the appellant at a hearing (rule 11).

In Part II(B), which applies to a respondent Health Authority, the action to be taken in replying to an appeal is set out (rule 12). Provision is made for the respondent to amend a reply and to seek directions from the FHSAA in relation to the case (rule 13) and about notice in respect of a hearing and representation at a hearing (rule 14).

Part III makes provision in respect of three kinds of applications (defined in rule 2(2)) by Health Authorities to the FHSAA. The third of these can also be made by a person who is the subject of a decision of the FHSAA under section 49M of the 1977 Act.

In Part III(A), which applies to the applicant, there is a time period which must have elapsed before an application can be made in respect of a contingent removal under section 49M(5) of the 1977 Act (rule 15). The procedure for making an application is set out (rule 16) and the documents and other material which are to accompany an application are specified (rule 17). Provision is made for the amendment of an application and the delivery to the FHSAA of any supplementary statements (rule 18), making applications for directions (rule 19), and the withdrawal of an application (rule 20). The actions an applicant must take when notified of a hearing date are specified (rule 21) and provision is made in respect of the representation of an applicant at a hearing (rule 22).

In Part III(B), which applies to the respondent to an application, provision is made for the action to be taken on receipt from the FHSAA of a notice of application and the documents and other material to accompany any reply (rules 23 and 24), the amendment of any reply and delivery of any supplementary statement (rule 25), the making of applications for directions about the case (rule 26), the action to be taken by the respondent when notified of a hearing date and about representation at the hearing (rules 27 and 28).

Part IV makes provision for general matters which relate to all cases, whether they are appeals or applications. Part IV(A) deals with acknowledgement and registration of appeals and applications by the FHSAA, Part IV(B) deals with preparation by a panel for hearing and Part IV(C) deals with determinations of appeals or applications by panels.

In Part IV(A) there is provision for the FHSAA to acknowledge and register appeals and applications (rule 29 only).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

In Part IV(B) the composition of panels in certain cases is specified (rule 30), provision is made about the allocation of cases to panels and the giving of directions by a panel (rules 31 and 32), the giving of further directions (rule 33), the disclosure of documents and other material (rule 34), the summoning of witnesses (rule 35), the effect of failure to comply with certain directions (rule 36) and the varying or setting aside of directions (rule 37).

In Part IV(C) provision is made for a panel to determine a case without a hearing in certain circumstances (rule 38), for hearings to be in public subject to certain exceptions (rule 39), the effect of the failure of a party to attend a hearing (rule 40), the procedure to be followed at a hearing (rule 41), the decision of a panel (rule 42), the review of a panel's decision in certain circumstances (rule 43), additional miscellaneous powers of panels (rule 44) and the curing of irregularities by a panel (rule 45).

Part V contains further miscellaneous provisions. The FHSAA may publish certain decisions under the Rules in addition to those referred to in paragraph 12(b) of Schedule 9A to the 1977 Act (rule 46) and may send copies of any decisions to certain persons or bodies (rule 47).