



Legal Aid
Agency

Help us to say yes Webinar: Mental Health

Civil Merits and Escape Case Teams

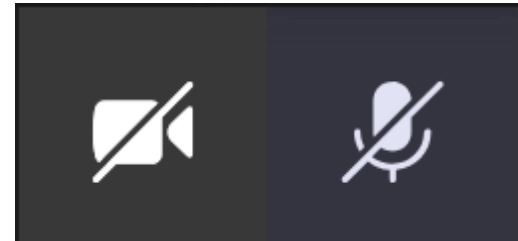
19 October 2023

Working with others to achieve excellence in the delivery of legal aid

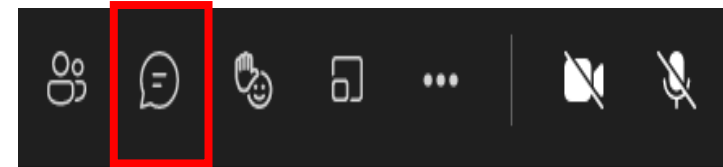
Technical tips for this webinar

1. Please put yourself on mute during the webinar
2. You can ask us questions at the end of each session through the 'meeting chat'
3. Click on the 'meeting chat' to ask a question
4. You can keep the meeting chat open throughout to view other people's questions
5. Email us if you experience technical issues during the webinar: LAAGHelpUsSayYes@justice.gov.uk

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Click here to view the meeting chat



Content

Introduction

Licensed work

Mental health billing

Additional information

Mental health: Civil merits and escape case

Purpose of the webinar:

- The purpose of this webinar is to assist you with certificated applications, amendments and to get your bills paid first time



By the end of the webinar, you will have an understanding of:

- The merits criteria
- Common issues with licensed work applications
- How to avoid rejections and reductions related to certificated bills

Licensed work

Stephen Fowle



Merits criteria

What we must consider:

- MR52: Full Representation mental health (MH) merits criteria
- MR39: Standard criteria
- MR43: Prospects of success criteria
- MR42: RPPI test
- Lord Chancellors directions: Chapter 9:
 - *Paragraph 9.16*: Cases that fall to be considered under regulation 52 must still satisfy all relevant merits criteria in regulations 39, 41 (a) and (b), 42 and 43. In particular, the applicant for legal aid must be seeking a defined outcome for which prospects of success are assessed as at least 50% or; borderline or marginal and the case is either of significant wider public interest, or overwhelming importance to the individual. The reasonable private paying client test must be satisfied in relation to cost benefit (MR 7)

Common further information (FI) requests:

- Provide copy of standard authorisation (SA) / extending court order
- Who is instructing
- Previous legal aid
- Costs amendments:
 - Number of hearings listed
 - Number of pages considered
 - Additional factors that may be escalating costs

Procedural issues within CCMS

- Standard costs limit £5000
- Emergency scope limitations
- Substantive scope limitations

Mental health billing

Graham McDonald



Rejected claims: Certificated bills

- Common themes for rejected claims relating to certificated bills:
- Disbursement voucher issues:
 - Not provided
 - Incorrect format
- Counsel's costs:
 - Counsels bill not uploaded to CCMS
 - Counsels bill uploaded prematurely
- Standard authorisation not provided
- Enhancement claimed not clear

Rejected claims: Mental health escape cases

Common themes for rejected claims relating to mental health (MH) escape cases:
Hourly rates used

- Reconciliation issues:
 - Claim form
 - Costs ledger
 - CWA discrepancies
- Disbursement voucher issues:
 - Not provided
 - Incorrect format
- Costs ledger issues:
 - Missing information
 - Insufficient information
- CWA:
 - Month uploaded not clear
 - Not yet uploaded

Assessed claims:

Common themes for cost reductions upon assessment:

- Means assessment issues
- Disbursement voucher issues:
 - Format
 - Minimum charges
- Evidence in support of attendance and preparation
- Matter start / rolling up issues

Avoiding rejects and reductions:

- Use of reject checklist ensures all administrative requirements are met:
<https://www.gov.uk/government/publications/escape-fee-case-claim-forms>
- Ensure controlled work (CW1&2) form and means evidence is submitted and easily located on the file
- Double check correct hourly rates applied before submission
- Disbursement vouchers:
 - Submitted using the correct format. They must show:
 - Work undertaken
 - Time taken a
 - Hourly rate charged
- Evidence in support of claim required:
 - Paper
 - Electronic

Avoiding rejects and reductions continued:

- Counsel rates above controlled legal representation (CLR):
 - If claiming, only the amounts above CLR should be claimed as counsel's costs. The remainder of the fees should be included within profit costs
- If taking instructions from a client at distance, due to a longstanding relationship with the client, this should be noted on the file
- Double check the forms are completed, and the Legal Help form is signed and dated before submitting

If unsure of an issue feel free to double check with the team before submitting:

- Email: mhu-ec@justice.gov.uk

Avoiding rejects and reductions continued:

- Time required to complete work must be supported by attendance notes:
 - Reasonableness is key issue for assessment
- Time taken to consider complex materials in respect of mental health matters above standard times in costs assessment guidance:
 - Reasons should be clarified on file notes
- Travel times:
 - If longer than route planner suggests (for example, traffic congestion, roadworks) note the reason on the attendance note
- Non-means / non-MHT matters:
 - If opening a matter under this category explain the reasoning on the CW1&2 form
- Use of the controlled work checklist when opening the claim:
 - <https://www.gov.uk/government/publications/mental-health-legal-help-and-representation>

Additional guidance / contact us



Useful guidance links continued: Mental health

- Certificated billing electronic handbook: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830008/Civil_Finance_Electronic_Handbook_-_v2.9.pdf
- Guidance for prior authorities (including use of KC): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737505/Guidance_on_authorities_and_legal_aid_for_cases_in_courts_outside_England_and_Wales_August_2018_clean_copy.pdf
- Instructing expert witnesses: <https://www.gov.uk/guidance/expert-witnesses-in-legal-aid-cases>
- EC Claim1 MH & reject checklist: <https://www.gov.uk/government/publications/escape-fee-case-claim-forms>

Useful guidance links: Mental health

- Standard Civil Contract 2018 (including Mental Health Specification and Contract Guidance Document): <https://www.gov.uk/government/publications/standard-civil-contract-2018>
- Means Assessment Guidance (Licensed & Controlled Work): <https://www.gov.uk/guidance/civil-legal-aid-means-testing>
- Civil Legal Aid (Merits Criteria) Regulations 2013: <http://www.legislation.gov.uk/all?title=Civil%20Legal%20Aid%20%28Merits%20Criteria%29%20Regulations%20>
- Costs Assessment Guidance 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/737499/Costs_Assessment_Guidance_2018_-_Version_1.pdf
- Escape Cases Electronic Handbook: <https://www.gov.uk/government/publications/submit-an-escape-fee-case-claim>

Contact us:

- Mental health unit: Email: mhu-ec@justice.gov.uk

Our training website



CCMS Quick Guides

- [Course: CCMS Provider: Emergency applications \(justice.gov.uk\)](#)
- [Course: CCMS provider: Closing cases and submitting bills \(justice.gov.uk\)](#)

CCMS Online Training

- Sign up on 'Eventbrite'

Online Support Webchat

- Use Webchat for help with IT system issues

Webinar Recordings

- Our 'Help Us Say Yes' webinars focus on areas where there have been issues or high enquiry levels
- Popular sessions are posted on the training website: [Ministry of Justice](#)

Our communications channels

Legal Aid Bulletin

- A fortnightly e-alert with links to relevant pages
- Join our thousands of subscribers



Social Media

- Follow us on Twitter
- Get help from our customer service twitter account
- Read our blog



LAA Portal

- We post the status of our online systems on the portal's home page





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