



Legal Aid
Agency

Mental Health Unit - Certificated Matters & Escape Cases

Autumn 2019

November 2019

Mental Health Unit - Context

- Mental Health Unit set up in 2005.
- Introduced to allow Legal Aid Agency (LAA) to build capability and expertise in this category of law.
- Recognition of issues that are specific to the Mental Health category of law and allows them to be taken into account.
- Improve service to Mental Health category practitioners and build positive working relationships between LAA & providers.

Mental Health Unit – Current Composition

- Based in LAA's Liverpool office.
- The team has grown over recent years to incorporate other aspects of Controlled Work in other categories of law but retains focus and expertise in mental health related matters.
- The team has grown to include 20 people but within this a core base of around 8 team members are focused on mental health related cases in both Controlled and Licensed Work matters.

Mental Health Unit – Current Processing

- **Certificated Applications:** 2,304 applications received and processed during 2018/19 financial year and 2,242 certificates issued.
- **Certificated Bills:** 2,640 bills received and processed during 2018/19 financial year with the following decisions issued:
 - **Paid/Assessed:** 1,436 (54.39%)
 - **Rejected:** 804 (30.45%)
 - **Document Request:** 400 (15.15%)

Mental Health Unit – Current Processing

- **Mental Health Escape Cases: 2018 – 19 Financial Year**
- 2,321 Mental Health Escape Case claims received and processed.

	Profit Costs	Disbursements
<i>Claimed</i>	<i>£4,774,696.72</i>	<i>£1,048,585.21</i>
Authorised after Initial Assessment	£4,590,044.95 (96.13% authorised)	£1,023,984.55 (97.65% authorised)
<i>Authorised after appeal</i>	<i>£4,703,419.06</i> <i>(2.47% reinstated)</i>	<i>£1,029,514.07</i> <i>(0.54% reinstated)</i>

Mental Health Unit – Current Processing

- Mental Health Escape Case profit costs authorised after appeal:
 - **Profit Costs: 98.6%**
 - **Disbursements: 98.19%**
- Very high level of contract compliance from providers in relation to Mental Health Escape Case assessments – highest of all categories.
- **Reject Rate: 14.65%** (340 Mental Health Escape Cases rejected of 2,321 claims processed).
- For both Licensed and Controlled Work we would like to reduce the amount of claims for payment that are rejected in order to allow assessment to take place upon initial submission.

Mental Health Unit – Rejected Claims

- Common Themes for Rejected Claims – **Certificated bills.**
- Disbursement voucher issues – not provided, incorrect format.
- Counsel’s bill not uploaded to CCMS or uploaded prematurely.
- Standard Authorisation not provided.
- Enhancement claimed not clear.

Mental Health Unit – Rejected Claims

- Common Themes for Rejected Claims – **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 or insufficient information.
- CWA – month uploaded not clear or not yet uploaded.

Mental Health Unit – Assessed Claims

- Common Themes for cost reductions upon assessment:
- Means assessment issues.
- Disbursement voucher issues – format, minimum charges etc.
- Evidence in support of attendance and preparation.
- Matter start/rolling up issues.

Mental Health Unit – Avoiding Rejects and Reductions

- Use of reject checklist ensures all administrative requirements are met and is located at <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 – correct format. Must show the work undertaken, the time taken and the hourly rate charged.
- File in support of claim required – paper or electronic.

Mental Health Unit – Avoiding Rejects and Reductions

- 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 (traffic congestion, roadworks etc) 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 located at <https://www.gov.uk/government/publications/mental-health-legal-help-and-representation>.

Mental Health Unit – Avoiding Rejects and Reductions

- Counsel rates above CLR. If claiming only the amounts above CLR should be claimed as Counsel's costs and 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

Electronic Files and Escape Case Claims

- We are keen to digitise processes wherever possible & although CWA process doesn't lend itself to a fully electronic process we are able to work around this.
- Firms are therefore able to submit electronic files and claim forms for Escape Case matters.
- This applies to files that have been opened as paper files or those that have been digital throughout the lifetime of the case.
- Electronic files can be submitted via email, cloud system or via CD.
- The EC Claim1 MH form can also be completed electronically and submitted in this format.

Electronic Files and Escape Case Claims

- Removes paper from the process completely – results of assessment returned electronically thus reducing postage costs.
- Turnaround time is the same as paper claims.
- Submission in this way is completely voluntary and if it is easier to send some claims as paper and some digitally this is fine (not a one or the other approach).
- If using an electronic file for case management purposes but you choose to submit a paper file for assessment it is helpful if it can be made clear that the CW1&2 form is a printed version from a digital file.

Electronic Files and Escape Case Claims

- Submitting electronic files – some helpful pointers:
- You can submit your electronic Escape Case claims to mhu-ec@justice.gov.uk (including the EC Claim1 form) in one of the following ways.
- Email attachment (up to 8 MB per email – if necessary to email file across several emails it is helpful if they are marked with the client's name and as 1 of 3, 2 of 3 etc).
- Upload file(s) into a cloud system and include instructions/link to access the file in the cloud within the email sent to mhu-ec@justice.gov.uk.

Electronic Files and Escape Case Claims

- Electronic file on CD (unable to accept file on memory stick due to security restrictions on laptops meaning they cannot be accessed unfortunately).
- No mandatory lay out for the submission of electronic files but same principle as paper files apply. If the file is ordered in terms of attendance notes, disbursement vouchers, reports etc it assists in the assessment process and makes speedier decisions possible with less scope for queries and rejects.
- If an electronic file submission is not a searchable document then it assists to submit the file in manageable segments of around 50 to 100 pages per segment.

Escape Cases - Extrapolation

- Process in which Escape Cases are processed by way of assessing 20% of files from a monthly submission and applying results to all Escape Cases within that month's submission.
- Total claimed amounts of sampled cases compared with total amounts authorised after assessment.
- Any reduction made is calculated as the overall percentage reduction to be applied to all cases within the monthly submission (including the sample cases).

Escape Cases - Extrapolation

- Concessions built into process to avoid disproportionate extrapolations.
- Reductions in time and costs in submitting EC claims
- If interested contact Graham McDonald to arrange a pilot run. If process is not to your liking can return to the conventional approach.
- Email: graham.mcdonald@justice.gov.uk

Mental Health – Useful Guidance Links

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>

Mental Health – Useful Guidance Links

Guidance for prior authorities (including use of QC):

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>

Mental Health – Useful Guidance Links

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>

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



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