

Steps for proceedings under the Injury Prevention, Rehabilitation and Compensation Act 2001

Step 1: Pre-review assessment

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<p>Pre-review assessment Where the merits of the case cannot be discerned due to volume and/or complexity of the file.</p>	up to 3 hours	<p>For</p> <ul style="list-style-type: none"> • Taking instructions, attending the client • Preparation of application legal aid • Identify reasons why prospects of success are not evident and what has to occur to assess prospects of success. • Identifying legal and factual issues • Review relevant ACC files and medical reports • Preparing opinion on legal aid merits tests (ss 7(1)(e), 9(3) and (4)) • Reporting to client • Reporting to and invoicing LSA

Documentation Requirements

- Application for Civil Legal Aid (*LSA Form 5*) [s12 Legal Services Act 2000]
- Civil Legal Aid Amendment to Grant (*LSA Form 19*) [s24 Legal Services Act 2000]
- Civil Legal Aid Tax Invoice (*LSA Form 20*)

Granting Notes

- This is an interim grant under s14(1)(b) to enable a provider to undertake an initial attendance, review ACC file(s) and provide the Agency with an opinion as to prospects of success.
- An interim grant will not be available in all cases as a matter of course. Providers are required to identify the reasons why prospects of success are not evident and what has to occur to assess these. For example, the matter may involve a range of complicated legal and/or medical issues, or the file may extend over several volumes.
- In the initial grant letter, providers will be advised that no further grant of aid can be assumed as consideration of the prospects of success will be required first.
- Where no further aid is granted (ie, aid is refused for steps 2 & 3) the withdrawal of aid process (s27) will commence.
- If more than the guideline hours are requested, the file may be referred to a specialist adviser for a recommendation.

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Step 2: ACC review

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
ACC review Where step 1 is omitted	up to 11 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identify reasons why prospects of success are not evident and what has to occur to assess prospects of success. • Identifying legal and factual issues • Review relevant ACC files and medical reports • Preparing opinion on legal aid merits tests (ss 7(1)(e), 9(3) and (4)) • Applying for ACC Review • Preparation of Review submissions • Reporting to client • Reporting to and invoicing LSA
ACC review Where the review is the first step	up to 11 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Applying for ACC Review • If necessary, seek approval from Agency to obtain independent medical report on applicant's condition • Preparation of Review submissions • Reporting to client • Reporting to and invoicing LSA (include a copy of Reviewer's decision)
Hearing	Actual hours	For attending Review hearing

Documentation Requirements

- Application for Civil Legal Aid (*LSA Form 5*) [s12 Legal Services Act 2000]
- Civil Legal Aid Amendment to Grant (*LSA Form 19*) [s24 Legal Services Act 2000]
- Civil Legal Aid Tax Invoice (*LSA Form 20*)
- Copy of medical or other specialist report

Granting Notes

Forms

- A fully completed *amendment* application (Form 19) where the applicant:
 - was previously in receipt of aid at Pre-review Assessment stage, OR
 - was not previously in receipt of aid at Pre-review Assessment stage but has already submitted a fully completed application (Form 5)
- Where the applicant chooses not to apply for step 1, a fully completed application (Form 5)

Granting for step 2

- It is possible that an application for an interim grant of aid may be declined while there are nevertheless grounds for granting aid for the substantive review. For example, the applicant may be financially eligible, but the ACC file is relatively small and/or straightforward. In these circumstances,

the provider should be able to discern the merits of the case and provide an opinion as to prospects of success without an interim grant.

- In this situation, grants officers should retain the application form and the file in their office and advise the applicant that they can still apply for a full grant for the ACC review. A new application on form 5 is not required. However, providers will need to submit an amendment with an opinion as to prospects of success.
- Providers may choose not to apply for an interim grant at step 1 if the ACC file is relatively small and/or straightforward. In these circumstances, a fully completed application on form 5 is required and providers will need to complete actions listed against step 1 in addition to step 2.
- If more than the guideline hours are requested, the file may be referred to a specialist adviser for a recommendation.

Reports

Special disbursements are available for medical and other reports:

- Up to \$750 may be approved by any Grants Officer.
- Grants Officers who are experienced in dealing with ACC cases have approval to consider reports up to \$2000.
- All requests over \$2000 require sign-off by the Southern Regional Manager.

When a provider requests that the Agency fund a report they must provide

- the name of the expert,
- a reason why this particular expert has been chosen, and
- the question(s) the expert is being asked to address.

If the provider is seeking a second independent specialist opinion they need to advise

- why this is required
- why they cannot ask their original expert for clarification of their opinion

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Step 3: District Court Appeal

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
District Court Appeal Where the listed provider <i>did not</i> represent the applicant at review	up to 12 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Reviewing ACC files and other relevant material • Identifying legal and factual issues • Preparation and filing of appeal papers in the District Court • Preparation of Appeal submissions • Reporting to client • Reporting to and invoicing LSA (include a copy of District Court decision)
District Court Appeal Where the listed provider represented the applicant at review	up to 6 hours	For <ul style="list-style-type: none"> • Taking instructions, attending the client • Identifying legal issues • Preparation and filing of appeal papers in the District Court • Preparation of Appeal submissions • Reporting to client • Reporting to and invoicing LSA (include a copy of District Court decision)
Hearing	Actual hours	For attending Appeal hearing

Documentation Requirements

- Application for Civil Legal Aid (*LSA Form 5*) [s12 Legal Services Act 2000]
- Civil Legal Aid Amendment to Grant (*LSA Form 19*) [s24 Legal Services Act 2000] – where applicant previously in receipt of aid at Review stage
- Civil Legal Aid Tax Invoice (*LSA Form 20*)

Granting Notes

Listed provider *did not* represent the applicant at review

- Where another provider represented the applicant, a request to transfer to the new provider must be submitted
- Sufficient information to advise Agency of the purpose of the appeal and to satisfy the s 9(4)(e) merits test for appeals, eg a copy or a draft of submissions to the District Court, or a summary of the points to be raised

Listed provider represented the applicant at review

- Sufficient information to advise Agency of the purpose of the appeal and to satisfy the s 9(4)(e) merits test for appeals, eg a copy or a draft of submissions to the District Court, or a summary of the points to be raised

Preparation of Casebooks

Casebooks are prepared for Appeals. They hold the case law relevant to the current appeal.

The Agency pays for the preparation of casebooks as follows:

- The provider's time for researching the cases is covered by the guideline hourly rates as part of preparation
- As an office disbursement at the rate of \$75.00 per casebook