



INFOGUIDE

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APPEALING LEGAL AID ONTARIO DECISIONS

Disclaimer: The following is intended for use as general information and is prepared for purposes of convenience only. It is not to be relied upon as legal advice or legal authority. If you have inquiries as to legal proceedings, or if you would like more detailed information regarding legislation, you should consult a lawyer.

What can I do if I was denied a legal aid certificate?

- If you were denied a legal aid certificate, you have the right to appeal the refusal to your local Legal Aid Ontario office. If you are unsuccessful, you can appeal again to the Appeals Department at the Provincial Office of Legal Aid Ontario.
- Another option is to submit a new application if your financial circumstances have changed.
- Keep in mind that certificates are generally only available for certain legal problems, such as:
 - mental health hearings (e.g., Consent and Capacity Board, Ontario Review Board);
 - criminal cases (e.g., offences which are likely to result in jail time);
 - family (e.g., custody, child protection, access, support);
 - immigration and refugee (deportations, refugee hearings, detention reviews); and
 - Social Benefit Tribunal matters.

What is a Notice of Refusal?

- If you are denied a legal aid certificate, you will receive a Notice of Refusal from Legal Aid Ontario. The Notice of Refusal will state the following:
 - reason(s) for the denial;
 - information concerning how to appeal Legal Aid Ontario's decision; and
 - a timeframe for submitting the appeal.

How do I submit an appeal?

- The appeal of appeal must be submitted in writing to the Area Director at your local Legal Aid Ontario office.
- Or, Legal Aid Ontario may ask you to complete a document called a "Form 19 – Notice of Appeal to Area Committee."

What information should I include in the letter of appeal?

- In your letter of appeal, you should provide reasons to support why you think you should have been granted a certificate.
- You may want to remind Legal Aid Ontario of its own policies. For example, the policy regarding hearings before the Consent and Capacity Board says that Legal Aid Ontario must be lenient in issuing these certificates.
- Be sure to explain the seriousness of your case and the impact it will have on your liberties and your life.
- If you have a lawyer, you may want to ask him or her to write the letter or to provide a letter in support of your application.
- If you are a patient at a divested or provincial psychiatric facility, you may contact the local Patient Advocate for assistance with this process.

When do I submit the appeal?

- Ideally, you should send it to Legal Aid Ontario as soon as possible.
- Generally, the appeal must be submitted 10 days after you receive the Notice of Refusal.

What are the possible outcomes of an appeal?

- You may receive one of the following written responses from Legal Aid Ontario advising you that:
 - a certificate was granted;
 - a certificate was not granted, along with a summary detailing the reasons for refusal;

- more time is needed to make a decision; or
- a hearing is scheduled before the Area Committee at a specific date and time to discuss your appeal.

What happens when I submit my appeal?

- Once your local Legal Aid Ontario office receives the appeal, there is an internal review of your case.
- If Legal Aid Ontario still refuses to give you a certificate after the internal review, your appeal is examined by the Area Committee.
- The Area Committee is made up of volunteer lawyer members. The lawyers are NOT employees of Legal Aid Ontario.

What happens at the hearing before the Area Committee?

- If a hearing is scheduled, you will have the opportunity to explain to the Area Committee why you think you should be given a certificate. Members of the Area Committee may ask you some questions.
- It is very important that you attend the hearing in order to explain your case.
- You may bring a lawyer or representative to assist you present your case.
- If you are detained under the *Mental Health Act* or the *Criminal Code of Canada*, you should speak to staff at the psychiatric facility where you are detained to facilitate your attendance at the hearing.

If I am unsuccessful before the Area Committee, can I appeal their decision?

- Yes, the decision of the Area Committee can be appealed to the Director of Appeals at the Provincial Office of Legal Aid Ontario.
- You will need to write a letter outlining why you think you should be given funding for legal assistance. Or, Legal Aid Ontario may ask you to complete a document called a “Form 17 – Notice of Appeal to the Legal Aid Provincial Office.”
- The letter or Form 17 can be mailed or faxed to the Provincial Office. Or, it can be delivered to the local Area Office who will send it on to the Provincial Office.
- If you would like to speak to the Director of Appeals, you must specifically request a hearing. The hearing will either be conducted in Toronto or over the telephone. You may have a lawyer or representative speak on your behalf.
- Usually, appeals to the Director of Appeals must be made 7 days after you received the decision of the Area Committee.

- The decision is usually mailed to you.

What can I do if I disagree with a repayment agreement?

- In some circumstances, if you have assets above the financial eligibility criteria, Legal Aid Ontario may require you to enter into a “contribution agreement” (also known as a repayment agreement). The contribution agreement sets out how you will repay for part or all of the costs of your legal services.
- You may also appeal a payment agreement if you disagree with the amount of money that must be repaid. The process is different than appealing a decision not to grant a certificate. If you disagree, take your financial information and speak to an Assessment Officer.

Questions?

- For more information about Legal Aid Ontario, contact their office at (416) 979-8669 in Toronto or 1-800-668-8258 outside of Toronto. Legal Aid Ontario’s website is www.legalaid.on.ca/en/.
- You can also contact your local Patient Advocate or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343. Visit our website at www.ppao.gov.on.ca for information about patients' rights.