

## LEGAL UPDATE

### **Result-based care needs assessment under Social Support Act 2015 permitted under circumstances.**

Date: 6 March 2018

On 9 February 2018, the District Court of North Holland [ruled](#) on the question as to whether the Municipal Executive of Bloemendaal had laid down a sufficiently objective and concrete basis for an individual decision by making use of a result-oriented care needs assessment. The facts and circumstances that are central to this judgment are as follows.

The person in question received 5.5 hours of domestic help per week under the Social Support Act 2015. In a reassessment, the person concerned was granted domestic help, resulting in a clean and liveable home and clean clothing. The domestic help was not assigned in time units but could, in the opinion of the municipal executive, also be assigned on the basis of results, provided that sufficient concrete information is provided on how much care is required. In the opinion of the municipal executive, this could also be done by specifying which activities needed to be carried out with which frequency in order to achieve the result.

The person concerned was satisfied with the domestic help received, but felt that the decision does not offer sufficient guarantees for the future. She claimed that the investigation on which the Municipal Executive based its decision was not carried out correctly and that the domestic help granted was insufficiently specified. She further stated that the Municipal Executive was unclear on the personal contribution by only stating a maximum amount.

On appeal, the court ruled that the investigation conducted prior to the granting of household help met the requirements of Section 2.3.2(4) and Section 2.3.5(3) of the Social Support Act 2015, because the investigation and the accompanying report covered all areas. As regards the manner in which domestic help was granted, the court referred to case law of the [Central Appeals Tribunal](#) and ruled that a clear benchmark is missing for granting domestic help in result areas. The court decided that in the present case the Municipal Executive did not limit itself to mentioning the result areas, but also specified in more detail which activities needed to be carried out, in which rooms and with which frequency. In doing so, the Municipal Executive based itself on the municipal regulations under the Social Support Act. Contrary to the Central Appeals Tribunal ruling referred to above, the Municipal Executive's regulations expressly explained what it takes to achieve the result of 'a clean and liveable house and access to clean clothing'. The court therefore ruled that the appeal of the person concerned was unfounded.

With regard to the use of a maximum amount in the relevant decision as an indication for the personal contribution, the court ruled, in line with the [case law of the Central Appeals Tribunal](#), that the Municipal Executive is not obliged to include the exact personal contribution in the decision but must specify the limit of the maximum contribution due. Specifying the exact amount of the personal contribution is not required, as this is determined by the Central Administration Office and the Municipal Executive is not authorised to decide that.

The judgment discussed in this Legal Update is relevant to legal practice because the court does not follow the argument of the person concerned that assessing care needs in terms of time offers more certainty than mentioning an activity and frequency. In the opinion of the court, a result-based assessment of care needs is permitted if the Municipal Executive specifies which activities must be carried out, in which rooms and with which frequency. This interpretation of the result areas should

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therefore be based on the municipal regulations under the Social Support Act. The Rotterdam District Court issued a [similar ruling](#) on 19 February 2018.

The question is whether the Central Appeals Tribunal follows this interpretation of the courts with regard to result-based care needs assessments.

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