

LEGAL UPDATE

Obligation for municipalities to actively approach clients for a re-indication under the Youth Act or Social Support Act 2015

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The Youth Act and the Social Support Act 2015 do not prescribe whether an indication must be issued for a certain period of time, nor what the duration of an arrangement to be made should be. In practice, decisions are taken by the Municipal Executive based on the aforementioned legislation and often for a short period of time. This is in line with the intentions of the legislator, which are reflected in parliamentary history of the Youth Act and the Social Support Act 2015, on the basis of which the resident's own strength is paramount and, in the event of a need for support, (short-term) care must be provided with the aim of phasing it out in the future in the event that the resident in question is doing better. This raises the question of how municipalities should decide with regard to residents with a chronic disability. This has recently been the subject of parliamentary questions, which have since been answered by the [minister \(2019Z12588\)](#). In answering the parliamentary questions, the minister also addressed the question of whether municipalities are obliged to actively approach a client who receives individual support on the basis of the Social Support Act 2015 or the Youth Act at the end of a decision.

The importance of long-term decisions

The minister indicates first of all that it has become apparent that clients who, in view of their limitations and disorders, have to rely on long-term arrangements are often allocated short-term arrangements by municipalities, without any explanation of the duration in those cases. As a result, clients experience unnecessary uncertainty and additional administrative charges. The minister considers this undesirable. On the basis of the Municipal Executive's investigation, it must be decided in each individual case for which period of time an arrangement is required.

Obligation of the Municipal Executive to provide information when decisions are coming to an end

In those cases where municipalities issue short-term provisions, the question is also whether the Municipal Executive is obliged to actively approach the client about the question of whether the arrangements should be continued. Or is this an obligation of the client?

When answering the parliamentary questions, the minister indicated that, given the great importance of continuity of care and support, it is primarily up to the Municipal Executive to actively approach the client regarding an expiring indication. The minister writes the following about this: *"There will be a significant group for whom such a principle leads to the risk of being late in applying for a re-evaluation. Uninterrupted care is especially important for people with a chronic condition. The law says that this is primarily the responsibility of the municipality. The municipality should use a system whereby the client is informed in good time and is actively approached about the expiry of the indication and its consequences."* In this context, it is not sufficient to point this out to the client only in the award decision.

Consequences for legal practice

The minister emphasises that he has drawn the attention of the municipalities to their responsibility for the continuity of care provision. This raises the question of what the consequences are for legal practice in the event that the Municipal Executive does not actively inform a client on time of an expiring decision. In my opinion, this may mean that if a client does not request a re-indication on time as a result, the Municipal Executive is obliged to provide the re-indication with retroactive effect if the care provision has continued over this period. In this context, reference is made to case law of the [Central Appeals Tribunal](#) under the old Social Support Act.

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