



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 4

MEETING NEEDS

Meeting needs: exceptions and restrictions

47 Exception for provision of health services

- (1) A local authority may not meet a person's needs for care and support (including a carer's needs for support) under sections 35 to 45 by providing or arranging for the provision of a service or facility which is required to be provided under a health enactment, unless doing so would be incidental or ancillary to doing something else to meet needs under those sections.
- (2) A local authority may not secure services or facilities for a person under section 15 (preventative services) that are required to be provided under a health enactment, unless doing so would be incidental or ancillary to securing another service or facility for that person under that section.
- (3) Regulations may specify—
 - (a) types of services or facilities which may, despite subsections (1) and (2), be provided or arranged by a local authority, or circumstances in which such services or facilities may be so provided or arranged;
 - (b) types of services or facilities which may not be provided or arranged by a local authority, or circumstances in which such services or facilities may not be so provided or arranged;
 - (c) services or facilities, or a method for determining services or facilities, the provision of which is, or is not, to be treated as incidental or ancillary for the purposes of subsection (1) or (2).

- (4) A local authority may not meet a person’s needs for care and support (including a carer’s needs for support) under sections 35 to 45 by providing or arranging for the provision of nursing care by a registered nurse.
- (5) A local authority may not secure the provision of nursing care by a registered nurse in discharging its duty under section 15.
- (6) But a local authority may, despite subsections (1), (2), (4) and (5), arrange for the provision of accommodation together with nursing care by a registered nurse—
- (a) if the authority has obtained consent for it to arrange for the provision of the nursing care from—
 - (i) whichever Local Health Board regulations require, in the case of accommodation in Wales, Scotland or Northern Ireland, or
 - (ii) whichever English health body regulations require, in the case of accommodation in England, or
 - (b) in an urgent case and where the arrangements are temporary.
- (7) In a case to which subsection (6)(b) applies, the local authority must seek to obtain the consent mentioned in subsection (6)(a) as soon as is feasible after the temporary arrangements are made.
- (8) Regulations may require a local authority—
- (a) to make arrangements in connection with the resolution of disputes between the authority and a health body about whether or not a service or facility is required to be provided under a health enactment;
 - (b) to be involved in the manner specified in processes for assessing a person’s needs for health care and deciding how those needs should be met.
- (9) Nothing in this section affects what a local authority may do under the National Health Service (Wales) Act 2006, including entering into arrangements under regulations made under section 33 of that Act (arrangements with NHS bodies).
- (10) In this section—
- an “English health body” (“*corff iechyd Seisnig*”) means—
 - (a) a clinical commissioning group;
 - (b) the National Health Service Commissioning Board;
 - a “health body” (“*corff iechyd*”) means—
 - (a) a Local Health Board;
 - (b) a clinical commissioning group;
 - (c) the National Health Service Commissioning Board;
 - (d) a Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978;
 - (e) a Special Health Board constituted under that section;
 - (f) a Health and Social Care trust;
 - a “health enactment” (“*deddfiad iechyd*”) means—
 - (a) the National Health Service (Wales) Act 2006;
 - (b) the National Health Service Act 2006;
 - (c) the National Health Service (Scotland) Act 1978;
 - (d) the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(S.I. 1972/1265 \(N.I. 14\)\)](#);

(e) the Health and Social Care (Reform) Act (Northern Ireland) 2009;

“nursing care” (“*gofal nyrsio*”) means a service which involves either the provision of care or the planning, supervision or delegation of the provision of care, but does not include a service which, by its nature and in the circumstances in which it is to be provided, does not need to be provided by a registered nurse.