
WELSH STATUTORY INSTRUMENTS

2011 No. 2942

The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011

Part 4 —

Preparing, reviewing and revising care and treatment plans

Persons to be consulted

6.—(1) Where a relevant patient's care coordinator must work with a relevant patient and that patient's mental health service providers to—

- (a) agree the outcomes which the provision of mental health services for that patient are designed to achieve as provided by section 18(1)(a) of the Measure;
- (b) agree a care and treatment plan for that patient as provided by section 18(1)(b) of the Measure; or
- (c) review and revise a care and treatment plan for that patient as provided by section 18(1)(c) of the Measure,

then the provisions of this regulation apply.

(2) Subject to paragraph (4), the care coordinator is to take all practicable steps to consult the following persons where those persons are identified in relation to a relevant patient—

- (a) all persons with parental responsibility for that patient;
- (b) all carers and adult placement carers of that patient;
- (c) that patient's responsible clinician;
- (d) where a guardian has been appointed for that patient as a result of a guardianship application made under section 7 of the 1983 Act or a guardianship order made under section 37 of the 1983 Act, that patient's guardian;
- (e) a donee of that patient's lasting power of attorney who has been appointed in accordance with section 10 (appointment of donees) of the 2005 Act, or a deputy of that patient who has been appointed by the Court of Protection in accordance with section 16 (powers to make decisions and appoint deputies: general) of the 2005 Act, provided that—
 - (i) in the case of a donee, the matters which are to be considered in the consultation fall within the scope of the lasting power of attorney, or
 - (ii) in the case of a deputy, the matters which are to be considered in the consultation fall within the scope of the order, directions or terms of appointment of the deputy which have been specified by the Court of Protection;
- (f) where there are acts or decisions proposed in relation to that patient under sections 37 (provision of serious medical treatment by NHS body), 38 (provision of accommodation by NHS body), 39 (provision of accommodation by local authority), 39A (person becomes subject to Schedule A1), 39C (person unrepresented whilst subject to Schedule A1) or 39D (person subject to Schedule A1 without paid representative) of the 2005 Act, an

Independent Mental Capacity Advocate who has been appointed to represent that patient in accordance with section 35 (appointment of independent mental capacity advocates) of that Act;

(g) where that patient is subject to a standard authorisation given under Part 4 (standard authorisations) of Schedule A1 to the 2005 Act, the managing authority, the supervisory body and the relevant person's representative who has been appointed for that patient under paragraph 139 (supervisory body to appoint representative) of Schedule A1 to the 2005 Act; and

(h) where that patient is subject to an urgent authorisation given under Part 5 (urgent authorisations) of Schedule A1 to the 2005 Act, the managing authority and the supervisory body.

(3) Subject to paragraph (4), where the following persons are identified in relation to a relevant patient, he or she may be consulted by the care coordinator—

(a) any person who the care coordinator wishes to consult, in order to facilitate the carrying out of the care coordinator's functions; and

(b) any person who that patient wishes to be consulted in connection with the care coordinator carrying out his or her functions.

(4) Before consulting any of the persons mentioned in paragraphs (2) and (3)(a) the care coordinator is to take account of the views of a relevant patient regarding whether such persons ought to be consulted.

(5) But the care coordinator may consult any of the persons mentioned in paragraphs (2) and (3)(a) against the wishes of a relevant patient provided that the care coordinator has given due consideration to the views of that patient.

(6) Where the same person is to be consulted in more than one capacity under paragraphs (2) and (3), only one consultation need take place.

(7) Where the person consulted is not an individual, consultation may take place with an individual acting on behalf of, or employed by, the person.

Review and revision of care and treatment plans

7.—(1) A care and treatment plan may be reviewed or revised by the care coordinator at any time provided that the care coordinator agrees to that review or revision.

(2) Subject to regulation 11, a care coordinator must review and, if necessary revise, a care and treatment plan when—

(a) a period of no more than 12 calendar months has elapsed since the initial preparation or the last review of that plan;

(b) a relevant patient requests a review of his or her plan before the 12 calendar month period has elapsed;

(c) a relevant patient's carer or adult placement carer requests a review of that patient's plan before the 12 calendar month period has elapsed; or

(d) a mental health service provider for the purposes of Part 2 (coordination of and care planning for secondary mental health service users) of the Measure⁽¹⁾ requests a review of a relevant patient's plan.

(3) But a care coordinator need not review a care and treatment plan at the request of a relevant patient, that patient's carer or that patient's adult placement carer if, in his or her opinion—

(1) See section 13 (meaning of "mental health service provider") of the Measure for the definition of mental health service provider for the purposes of Part 2.

- (a) the request for a review is frivolous or vexatious; or
- (b) since the last review there has been no change in circumstances which merit the holding of another review before the 12 month period in paragraph (2)(a) has passed.

(4) With the exception of the requirement to have a review and, if necessary, a revision of a care and treatment plan as provided in paragraph (2)(a), a care coordinator need not review a care and treatment plan under any provision of this regulation if minor amendments are required to the plan which, in the care coordinator's opinion, it is appropriate to make without a review being carried out.

Copies of care and treatment plans

8.—(1) Where a relevant patient's care coordinator has—

- (a) agreed a care and treatment plan for a relevant patient and recorded the plan in writing as provided by section 18(1) and (2) of the Measure;
- (b) recorded the plan or plans determined under the provisions of section 18(4) or (5) of the Measure in writing as provided by section 18(6) of the Measure; or
- (c) reviewed or revised a care and treatment plan for a relevant patient as provided by regulation 7 or 11 of the Regulations,

then the provisions of this regulation apply.

(2) Subject to paragraph (4), where the following persons are identified in relation to a relevant patient, the care coordinator is to take all practicable steps to ensure that such persons are provided with a written copy of that patient's care and treatment plan—

- (a) that patient, unless—
 - (i) that patient has declined to receive a copy of the plan; or
 - (ii) the provision of a copy of the plan is likely to cause serious harm to the physical or mental health or condition of that patient;
- (b) all persons with parental responsibility for that patient, unless a person with such responsibility has declined to receive a copy of the plan;
- (c) all carers and adult placement carers of that patient, unless a carer or adult placement carer has declined to receive a copy of the plan;
- (d) that patient's registered medical practitioner;
- (e) the mental health service providers and voluntary organisations who provide mental health services to that patient;
- (f) that patient's responsible clinician;
- (g) where a guardian has been appointed for that patient as a result of a guardianship application made under section 7 of the 1983 Act or a guardianship order made under section 37 of the 1983 Act—
 - (i) that patient's guardian, and
 - (ii) that patient's responsible Local Social Services Authority;
- (h) a donee of that patient's lasting power of attorney who has been appointed in accordance with section 10 of the 2005 Act, or a deputy of that patient who has been appointed by the Court of Protection in accordance with section 16 of the 2005 Act, provided that—
 - (i) in the case of a donee, the matters with which the plan is concerned including (but not limited to) outcomes which have been agreed in accordance with section 18(1)(a) of the Measure, fall within the scope of the lasting power of attorney, or
 - (ii) in the case of a deputy, the matters with which the plan is concerned including (but not limited to) outcomes which have been agreed in accordance with section 18(1)(a)

of the Measure, fall within the scope of the order, directions or terms of appointment of the deputy which may have been specified by the Court of Protection;

- (i) where there are acts or decisions proposed in relation to that patient under sections 37, 38, 39, 39A, 39C or 39D of the 2005 Act, an Independent Mental Capacity Advocate who has been appointed to represent that patient in accordance with section 35 of that Act;
 - (j) where that patient is subject to a standard authorisation given under Part 4 of Schedule A1 to the 2005 Act, the managing authority, the supervisory body and the relevant person's representative who has been appointed for that patient under paragraph 139 of Schedule A1 to the 2005 Act; and
 - (k) where that patient is subject to an urgent authorisation given under Part 5 of Schedule A1 to the 2005 Act, the managing authority and the supervisory body.
- (3) Subject to paragraph (4), where the following persons are identified in relation to a relevant patient, he or she may be provided with a written copy of that relevant patient's care and treatment plan—
- (a) any person who the care coordinator wishes to receive a copy of the plan, in order to facilitate the achievement of the outcomes which the provision of mental health services are designed to achieve for that patient; and
 - (b) any person who that patient wishes to be provided with a copy of the plan.
- (4) Before providing copies of a relevant patient's care and treatment plan to any of the persons mentioned in paragraphs (2) and (3)(a) the care coordinator is to take account of the views of that patient regarding whether such persons ought to be provided with such copies.
- (5) But the care coordinator may provide copies of a relevant patient's plan to any of the persons mentioned in paragraphs (2) and (3)(a) against the wishes of that patient provided that the care coordinator has given due consideration to the views of that patient.
- (6) For the purposes of this regulation—
- (a) where a copy of a plan is to be provided to a person, the care coordinator may withhold that copy or provide a copy of part of that plan if the care coordinator is of the view that it is in a relevant patient's interests to do so;
 - (b) where a person is eligible to receive more than one copy of a plan relating to a relevant patient, only one copy of the plan need be provided;
 - (c) a person is eligible to receive a copy of a plan if he or she is eligible under one or more of the categories in paragraph (2) at the time when copies of the plan are to be provided under paragraph (1);
 - (d) a person to whom a plan is to be provided cannot decline to receive a plan unless a provision in paragraph (2) expressly allows him or her to do so.

Delivery of copies of care and treatment plans

- 9.—(1) Any copy of a care and treatment plan is provided if it is—
- (a) delivered by hand to a person;
 - (b) delivered by hand to the last known address of a person;
 - (c) sent by prepaid post to the last known address of a person;
 - (d) sent by facsimile transmission to a number specified by a person; or
 - (e) delivered or sent by any other means whether electronic or otherwise as may be agreed between the care coordinator and a person.
- (2) Where a person is not an individual, a copy of a plan is provided if it is delivered or sent to an individual acting on behalf of, or employed by, that person.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
