
WELSH STATUTORY INSTRUMENTS

2015 No. 1919 (W. 285)

SOCIAL CARE, WALES

The Care and Support (Provision of Health Services) (Wales) Regulations 2015

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| <i>Made</i> | - - - - | <i>18 November 2015</i> |
| <i>Laid before the National Assembly for Wales</i> | - - | <i>20 November 2015</i> |
| <i>Coming into force</i> | - - | <i>6 April 2016</i> |

The Welsh Ministers in exercise of the powers conferred by sections 47(6)(a), 47(8)(a) and 196(2) of the Social Services and Well-being (Wales) Act 2014⁽¹⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Care and Support (Provision of Health Services) (Wales) Regulations 2015 and they come into force on 6 April 2016.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014;

“A” (“*A*”) means a person who has need for care and support under sections 35 to 45 of the 2014 Act;

“Continuing NHS Healthcare” (“*Gofal Iechyd Parhaus y GIG*”) means a package of care arranged and funded solely by the health service for a person aged 18 or over where it has been assessed that the person’s primary need is a health need;

“health body” (“*corff iechyd*”) has the same meaning as in section 47(10) of the 2014 Act;

“health service” (“*gwasanaeth iechyd*”) means the health service continued under section 1(1) of the National Health Service (Wales) Act 2006⁽²⁾.

(1) 2014 anaw 4.
(2) 2006 c. 42.

The specified health body for the purposes of section 47(6) of the 2014 Act

3.—(1) Where a local authority, in reliance on section 47(6) of the 2014 Act, is making arrangements for the provision of accommodation together with nursing care⁽³⁾ by a registered nurse, the health body from which the local authority must obtain consent is—

- (a) where the local authority proposes to accommodate A in Wales, the Local Health Board for the area in which the accommodation is provided;
- (b) where the local authority proposes to accommodate A in Scotland or Northern Ireland, the Local Health Board for the area in which that local authority is located;
- (c) where the local authority proposes to accommodate A in England, the responsible clinical commissioning group.

(2) For the purposes of this regulation, the responsible clinical commissioning group in respect of any person is the clinical commissioning group which has responsibility for arranging for the provision of nursing care by a registered nurse in respect of that person, pursuant to the provisions of section 3(1), (1A) and (1E) of the National Health Service Act 2006⁽⁴⁾ and any regulations made under section 3(1B) or (1D) of that Act.

Arrangements for the resolution of disputes for the purposes of section 47(8) of the 2014 Act

4.—(1) A local authority must 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.

(2) Such arrangements must include arrangements in connection with the resolution of disputes about—

- (a) decisions as to a person's eligibility for Continuing NHS Healthcare;
- (b) the contribution of a health body or local authority to a joint package of care for a person who is not eligible for Continuing NHS Healthcare.

(3) The arrangements must include—

- (a) a procedure for resolving such disputes which has been agreed with the health body;
- (b) provision for meeting the needs of the person to whom the dispute relates pending the resolution of the dispute;
- (c) a requirement that any dispute does not prevent, delay, interrupt or otherwise adversely affect the meeting of the needs of the person to whom the dispute relates.

18 November 2015

Mark Drakeford
Minister for Health and Social Services, one of
the Welsh Ministers

⁽³⁾ "Nursing care" has the meaning given in section 47(10) of the 2014 Act.

⁽⁴⁾ 2006 c. 41.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 47(6) of the Social Services and Well-being (Wales) Act 2014 (“the 2014 Act”) gives a local authority the power to arrange for the provision of accommodation together with nursing care by a registered nurse if the local authority obtains consent from the relevant Local Health Board in the case of accommodation in Wales, or the relevant clinical commissioning group in the case of accommodation in England. These Regulations make further provision about such arrangements.

The Regulations also make provision for the resolution of disputes between a local authority and a health body about whether or not a service or facility is required to be provided under a health enactment. If a service or facility is required to be provided under a health enactment, section 47(1) provides that a local authority has no power to meet a person’s needs for care and support by providing or arranging for the provision of such a service or facility, unless doing so would be incidental or ancillary to doing something else to meet the person’s needs.

Regulation 3 specifies, for the purposes of section 47(6) of the 2014 Act, the relevant health body from which the local authority must obtain consent in order to make arrangements for the provision of accommodation together with nursing care by a registered nurse.

Regulation 4 requires a local authority to make arrangements in connection with the resolution of disputes between the authority and a Local Health Board or clinical commissioning group about whether or not a service or facility is required to be provided under a health enactment, including disputes about eligibility for Continuing NHS Healthcare. It also specifies provisions that must be included in those arrangements.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has not been prepared as to the likely costs and benefits of complying with these Regulations.