



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1919 (Cy. 285)

2015 No. 1919 (W. 285)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**Rheoliadau Gofal a Chymorth
(Darparu Gwasanaethau Iechyd)
(Cymru) 2015**

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

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae adran 47(6) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (“Deddf 2014”) yn rhoi'r pŵer i awdurdod lleol i drefnu i lety ynghyd â gofal nyrsio gan nyrs gofrestredig gael eu darparu os yw'r awdurdod lleol yn cael cydsyniad gan y Bwrdd Iechyd Lleol perthnasol yn achos llety yng Nghymru, neu'r grŵp comisiynu clinigol perthnasol yn achos llety yn Lloegr. Mae'r Rheoliadau hyn yn gwneud darpariaeth bellach ynghylch trefniadau o'r fath.

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.

Mae'r Rheoliadau hefyd yn gwneud darpariaeth ar gyfer datrys anghydfodau rhwng awdurdod lleol a chorff iechyd ynghylch pa un a yw'n ofynnol darparu gwasanaeth neu gyfleuster o dan ddeddfiad iechyd ai peidio. Os yw'n ofynnol darparu gwasanaeth neu gyfleuster o dan ddeddfiad iechyd, mae adran 47(1) yn darparu nad oes gan awdurdod lleol bŵer i ddiwallu anghenion person am ofal a chymorth drwy ddarparu neu drwy drefnu i ddarparu gwasanaeth neu gyfleuster o'r fath, oni bai y byddai gwneud hynny yn gysylltiedig â gwneud rhywbeth arall i ddiwallu anghenion y person, neu'n ategol at wneud hynny.

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.

Mae rheoliad 3 yn pennu, at ddibenion adran 47(6) o Ddeddf 2014, y corff iechyd perthnasol y mae rhaid i'r awdurdod lleol gael cydsyniad ganddo er mwyn gwneud trefniadau i lety ynghyd â gofal nyrsio gan nyrs gofrestredig gael eu darparu.

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.

Mae rheoliad 4 yn ei gwneud yn ofynnol i awdurdod lleol wneud trefniadau mewn cysylltiad â datrys anghydfodau rhwng yr awdurdod a Bwrdd Iechyd Lleol neu grŵp comisiynu clinigol ynghylch pa un a yw'n ofynnol darparu gwasanaeth neu gyfleuster o dan ddeddfiad iechyd ai peidio, gan gynnwys anghydfodau ynghylch cymhwysra am Ofal Iechyd Parhaus y GIG. Mae hefyd yn pennu darpariaethau y mae rhaid eu cynnwys yn y trefniadau hynny.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ni luniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

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.

2015 Rhif 1919 (Cy. 285)

**GOFAL CYMDEITHASOL,
CYMRU**

Rheoliadau Gofal a Chymorth
(Darparu Gwasanaethau Iechyd)
(Cymru) 2015

Gwnaed 18 Tachwedd 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 20 Tachwedd 2015

Yn dod i rym 6 Ebrill 2015

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 47(6)(a), 47(8)(a) a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofal a Chymorth (Darparu Gwasanaethau Iechyd) (Cymru) 2015 a deuant i rym ar 6 Ebrill 2015.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "A" ("A") yw person y mae arno angen gofal a chymorth o dan adrannau 35 i 45 o Ddeddf 2014;

mae i "corff iechyd" ("health body") yr un ystyr ag yn adran 47(10) o Ddeddf 2014;

ystyr "Deddf 2014" ("the 2014 Act") yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014;

ystyr "Gofal Iechyd Parhaus y GIG" ("Continuing NHS Healthcare") yw pecyn gofal a drefnir ac a

(1) 2014 decc 4.

2015 No. 1919 (W. 285)

SOCIAL CARE, WALES

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

Made 18 November 2015

*Laid before the National Assembly
for Wales* 20 November 2015

Coming into force 6 April 2016

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

(1) 2014 anaw 4.

ariennir yn gyfan gwbl gan y gwasanaeth iechyd ar gyfer person 18 oed neu drosodd pan aseswyd mai angen iechyd yw prif angen y person;

ystyr “gwasanaeth iechyd” (“*health service*”) yw’r gwasanaeth iechyd a barheir o dan adran 1(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(1).

Y corff iechyd penodedig at ddibenion adran 47(6) o Ddeddf 2014

3.—(1) Pan fo awdurdod lleol, gan ddibynnu ar adran 47(6) o Ddeddf 2014, yn gwneud trefniadau i lety ynghyd â gofal nyrsio(2) gan nyrs gofrestrdig gael eu darparu, y corff iechyd y mae rhaid i’r awdurdod lleol gael cydsyniad ganddo yw—

- (a) pan fo’r awdurdod lleol yn bwriadu lletya A yng Nghymru, y Bwrdd Iechyd Lleol ar gyfer yr ardal lle y darperir y llety;
- (b) pan fo’r awdurdod lleol yn bwriadu lletya A yn yr Alban neu yng Ngogledd Iwerddon, y Bwrdd Iechyd Lleol ar gyfer yr ardal lle y lleolir yr awdurdod lleol hwnnw;
- (c) pan fo’r awdurdod lleol yn bwriadu lletya A yn Lloegr, y grŵp comisiynu clinigol cyfrifol.

(2) At ddibenion y rheoliad hwn, y grŵp comisiynu clinigol cyfrifol mewn cysylltiad ag unrhyw berson yw’r grŵp comisiynu clinigol sydd â chyfrifoldeb am drefnu i ddarparu gofal nyrsio gan nyrs gofrestrdig mewn cysylltiad â’r person hwnnw, yn unol â darpariaethau adran 3(1), (1A) ac (1E) o Ddeddf y Gwasanaeth Iechyd Gwladol 2006(3) ac unrhyw reoliadau a wneir o dan adran 3(1B) neu (1D) o’r Ddeddf honno.

Trefniadau ar gyfer datrys anghydfodau at ddibenion adran 47(8) o Ddeddf 2014

4.—(1) Rhaid i awdurdod lleol wneud trefniadau mewn cysylltiad â datrys anghydfodau rhwng yr awdurdod a chorff iechyd ynghylch pa un a yw’n ofynnol darparu gwasanaeth neu gyfleuster o dan ddeddfiad iechyd ai peidio.

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(1).

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(2) 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(3) 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.

(1) 2006 p. 42.

(2) Mae i “gofal nyrsio” yr ystyr a roddir yn adran 47(10) o Ddeddf 2014.

(3) 2006 p. 41.

(1) 2006 c. 42.

(2) “Nursing care” has the meaning given in section 47(10) of the 2014 Act.

(3) 2006 c. 41.

(2) Rhaid i drefniadau o'r fath gynnwys trefniadau mewn cysylltiad â datrys anghydfodau ynghylch—

- (a) penderfyniadau o ran cymhwystra person am Ofal Iechyd Parhaus y GIG;
- (b) cyfraniad corff iechyd neu awdurdod lleol at becyn gofal ar y cyd i berson nad yw'n gymwys am Ofal Iechyd Parhaus y GIG.

(3) Rhaid i'r trefniadau gynnwys—

- (a) gweithdrefn ar gyfer datrys anghydfodau o'r fath y cytunwyd ami â'r corff iechyd;
- (b) darpariaeth ar gyfer diwallu anghenion y person y mae'r anghydfod yn ymwneud ag ef wrth aros i'r anghydfod gael ei ddatrys;
- (c) gofyniad nad yw unrhyw anghydfod yn atal diwallu, yn achosi oedi cyn diwallu, yn ymyrryd â diwallu neu fel arall yn effeithio'n andwyol ar ddiwallu, anghenion y person y mae'r anghydfod yn ymwneud ag ef.

(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.

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
18 Tachwedd 2015

Minister for Health and Social Services, one of the
Welsh Ministers
18 November 2015

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