
WELSH STATUTORY INSTRUMENTS

2011 No. 963

The Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011

Interpretation

2.—(1) In these Regulations—

“the 2001 Act” (“*Deddf 2001*”) means the Health and Social Care Act 2001⁽¹⁾;

“the Measure” (“*y Mesur*”) means the Social Care Charges (Wales) Measure 2010;

“the 2011 Regulations” (“*Rheoliadau 2001*”) means the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2011;

“assessable income” (“*incwm asesadwy*”) means that part of D’s income in respect of which a local authority may make a determination in accordance with regulation 17; it does not include the income which a local authority is required to disregard in accordance with regulation 16;

“assessment of needs” (“*asesiad anghenion*”) means an assessment by a local authority of D’s need for community care services undertaken in accordance with section 47 of the National Health Service and Community Care Act 1990⁽²⁾ or section 1 of the Carers and Disabled Children Act 2000⁽³⁾ and “assessed as needing” (“*aseswyd bod arno angen*”) is to be read accordingly;

“basic entitlement” (“*hawlogaeth sylfaenol*”) means, in relation to—

(a) income support—

the personal allowance and any premiums to which D is entitled, but need not include the severe disability premium (“SDP”) where it is paid, and where D is a carer, includes any carer premium that person receives,

(b) employment and support allowance—

the personal allowance and any premiums and components to which D is entitled, but need not include the SDP where it is paid, and where D is a carer includes any carer premium that person receives,

(c) guarantee credit—

the personal allowance and any additional amount to which D is entitled, but need not include the additional amount added for severe disability where it is paid, and where D is a carer, includes any additional amount applicable for carers that person receives;

“charge” (“*ffi*”) is the amount that a local authority may require a service user to pay for a service which the authority provides or secures in accordance with section 1(1) of the Measure (general power to charge for care services);

(1) 2001 c. 15.
(2) 1990 c. 19.
(3) 2000 c. 16.

“D” (“*D*”) means an adult who is prescribed for the purposes of—

- (a) section 57(1) of the 2001 Act, by regulation 3 of the 2011 Regulations (prescribed descriptions of persons under section 57(1) of the 2001 Act – community care services and services for carers); and
- (b) section 57(1A) of the 2001 Act, by regulation 4 of the 2011 Regulations (prescribed descriptions of persons under section 57(1A) of the 2001 Act – community care services), and

in either case, who has been offered, who is receiving or, in the case of a person described in paragraph (b), in respect of whom a suitable person is receiving, a direct payment for securing the provision of a service;

“day service” (“*gwasanaeth dydd*”) means a service, which meets a part of D’s assessed needs, which takes place away from that person’s home and which is intended to assist the person in meeting others, in taking up new or practising existing interests and includes work opportunities;

“direct payment” (“*taliad uniongyrchol*”) has the meaning given in regulations 8 and 9 of the 2011 Regulations and any reference to a direct payment includes, where the context requires any part or parts of that payment;

“dual provision” (“*darpariaeth ddeuol*”) means that D’s assessed needs are being met—

- (a) in part by a local authority providing or securing a service or services for that person, and
- (b) in part by D receiving a direct payment in order to secure the provision of another or other services;

“employment and support allowance” (“*lwfans cyflogaeth a chymorth*”) means either contributory employment and support allowance or income-related employment and support allowance in accordance with Part 1 of the Welfare Reform Act 2007(4);

“flat-rate charge” (“*ffi unffurf*”) means a fixed rate charge for a chargeable service received by a service user which is imposed by a local authority regardless of the means of the service user;

“guarantee credit” (“*credyd gwarant*”) is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(5);

“home visiting facility” (“*cyfleuster ymweliadau cartref*”) means a visit (or visits) which are undertaken by an appropriate officer of a local authority to D’s current place of residence, or at such other venue as D reasonably requests, for the purposes of gathering information to inform a means assessment for that person and for providing information and offering assistance in relation to that process;

“in writing” (“*mewn ysgrif*”) means any expression consisting of words or figures that can be read, reproduced and subsequently communicated and may include information transmitted and stored by electronic means;

“income support” (“*cymhorthdal incwm*”) means income support paid in accordance with section 124 of the Social Security Contributions and Benefits Act 1992(6);

“means assessment” (“*asesiad modd*”) means an assessment of D’s financial means undertaken in accordance with regulations 13 and 16 and “assessment of D’s means” (“*asesiad o fodd D*”) is to be read accordingly;

“net income” (“*incwm net*”) means, the income that D has, or would have left after the deduction from that person’s assessable income of the standard amount (or any other amount)

(4) 2007 c. 5.
 (5) 2002 c. 16.
 (6) 1992 c. 4.

required under these Regulations by way of a payment towards the cost of securing the service for which a direct payment is, or will be, received;

“relevant benefit” (“*budd-dal perthnasol*”) means—

- (a) income support; or
- (b) employment and support allowance; or
- (c) guarantee credit;

“savings credit” (“*credyd cynilion*”) has the meaning given in sections 1 and 3 of the State Pension Credit Act 2002;

“service” (“*gwasanaeth*”) means a chargeable service and, where the context requires, chargeable services or a combination of chargeable services and “services” (“*gwasanaethau*”) and “combination of services” (“*cyfuniad o wasanaethau*”) are to be interpreted accordingly;

“service user” (“*defnyddiwr gwasanaeth*”) means an adult who has been offered, or who is receiving, a service provided or secured by a local authority;

“standard amount” (“*swm safonol*”) means the amount which D would be required to pay towards securing the provision of a service if no assessment of that person’s means or determination of the service user’s ability to pay under these Regulations has effect;

“suitable person” (“*person addas*”) means a person appointed in accordance with regulation 9 of the 2011 Regulations to consent to and to receive a direct payment on behalf of D in accordance with regulation 4 of those Regulations;

“working day” (“*diwrnod gwaith*”) means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a Bank Holiday within the meaning of the Banking and Financial Dealings Act 1971(7).

(2) In these Regulations, any reference to D “paying” (“*yn talu*”) or making a “payment” (“*taliad*”) of an amount (towards the cost of securing the provision of a service) is to be interpreted as including a reference to the paying or the making of a payment by way of reimbursement or contribution(8).

(7) 1971 c. 80.

(8) “Reimbursement” and “contribution” are defined in section 12(5) of the Measure.