OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2017 Rhif 214 (Cy. 58)

GOFAL CYMDEITHASOL, CYMRU

Rheoliadau Gofal a Chymorth (Dewis o Lety, Gosod Ffioedd ac Asesiad Ariannol) (Diwygiadau Amrywiol) (Cymru) 2017

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio amryw Reoliadau a wnaed o dan Rannau 4 a 5 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ("y Ddeddf").

Mae rheoliad 2 yn diwygio rheoliad 2 o Reoliadau Gofal a Chymorth (Dewis o Lety) (Cymru) 2015 i'w gwneud yn eglur nad yw dyletswydd yr awdurdod lleol i ddarparu dewis o lety yn gymwys pan angen byrdymor sydd ar berson am y ddarpariaeth o lety. Yna mewnosodir diffiniad o "byrdymor" yn rheoliad 1(3), sef cyfnod nad yw'n hwy nag 8 wythnos.

Mae rheoliad 3 yn diwygio Rheoliadau Gofal a Chymorth (Gosod Ffioedd) (Cymru) 2015. Mae paragraffau (b) ac (h) yn diwygio uchafswm y ffi wythnosol am ofal a chymorth amhreswyl. Mae hwn wedi ei ddiwygio o £60 i £70. Mae paragraff (d) yn cywiro gwall drafftio i'w gwneud yn eglur bod rheoliad 9 yn gymwys mewn perthynas â'r ffioedd am ofal a chymorth preswyl. Mae paragraff (e) yn diwygio rheoliad 11 i sefydlu dau derfyn cyfalaf gwahanol – un a fydd yn gymwys i godi ffioedd am ofal preswyl a fydd yn cynyddu i £30,000 ac un a fydd yn gymwys i godi ffioedd am ofal amhreswyl a fydd yn aros ar y lefel bresennol o £24,000. Mae paragraff (j) yn gwneud diwygiad canlyniadol i reoliad 26 i adlewyrchu'r ffaith bod dau derfyn cyfalaf. Mae paragraffau (f) a (k) yn diwygio rheoliadau 13 ac 28 yn y drefn honno i gynyddu'r isafswm incwm wythnosol pan fo llety yn cael ei ddarparu i berson mewn cartref gofal o £26.50 i £27.50. Mae paragraff (g) yn diwygio

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SOCIAL CARE, WALES

The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various Regulations made under Parts 4 and 5 of the Social Services and Well-being (Wales) Act 2014 ("the Act").

Regulation 2 amends regulation 2 of the Care and Support (Choice of Accommodation) (Wales) Regulations 2015 to make it clear that the local authority's duty to provide choice of accommodation does not apply where a person's need for the provision of accommodation is short term. A definition of "short term" is then inserted in regulation 1(3) as meaning a period not exceeding 8 weeks.

Regulation 3 amends the Care and Support (Charging) (Wales) Regulations 2015. Paragraphs (b) and (h) amend the amount of the maximum weekly charge for non-residential care and support. This has been revised from £60 to £70. Paragraph (d) corrects a drafting error to make it clear that regulation 9 applies in relation to the charges for residential care and support. Paragraph (e) amends regulation 11 to establish two different capital limits – one that will apply to charging for residential care which will increase to £30,000 and one that will apply to charging for non-residential care which will be maintained at the current level of £24,000. Paragraph (j) makes a consequential amendment to regulation 26 to reflect the fact that there are two capital limits. Paragraphs (f) and (k) amend regulations 13 and 28 respectively to increase the weekly minimum income amount where a person is provided with accommodation in a care home from £26.50 to £27.50. Paragraph (g) amends

rheoliad 15 i'w gwneud yn eglur bod rhaid, yn dilyn asesiad ariannol diwygiedig, ddyroddi datganiad pellach i'r sawl sy'n cael gofal a bod y ffi ddiwygiedig yn dod yn daladwy (ac y caniateir ei hôl-ddyddio) o'r dyddiad pan gododd yr amgylchiad a arweiniodd at y dyfarniad diwygiedig. Mae paragraff (l) yn gwneud yr un diwygiad i reoliad 30 mewn cysylltiad â dyfarniadau diwygiedig o daliadau uniongyrchol.

Mae rheoliad 4 yn diwygio Rheoliadau Gofal a Chymorth (Asesiad Ariannol) (Cymru) 2015. Mae Atodlen 1 yn gwneud darpariaeth mewn cysylltiad â'r symiau sydd i gael eu diystyru pan fo awdurdod lleol yn cyfrifo incwm at ddibenion y Ddeddf. Mae paragraffau (a) a (b) yn rhoi paragraff 16 newydd yn lle'r hen un fel y bydd diystyru llwyr yn gymwys i godi ffioedd am ofal a chymorth preswyl ac amhreswyl mewn cysylltiad â symiau a geir o dan y Pensiwn Anabledd Rhyfel.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth y Grŵp Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

regulation 15 to make it clear that following a revised revised financial assessment, a further statement must be issued to the care recipient and the revised charge becomes payable (and may be backdated) from the date when the circumstance that gave rise to the revised determination arose. Paragraph (l) makes the same amendment to regulation 30 in respect of revised determinations of direct payments.

Regulation 4 amends the Care and Support (Financial Assessment) (Wales) Regulations 2015. Schedule 1 makes provision in respect of the sums that are to be disregarded when a local authority is calculating income for the purposes of the Act. Paragraphs (a) and (b) substitute paragraph 16 so that a full disregard will apply to charging for residential and non-residential care and support in respect of sums received under the War Disablement Pension.

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 been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Health and Social Services Group, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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GOFAL CYMDEITHASOL, CYMRU

Rheoliadau Gofal a Chymorth (Dewis o Lety, Gosod Ffioedd ac Asesiad Ariannol) (Diwygiadau Amrywiol) (Cymru) 2017

Gwnaed *27 Chwefror 2017*

Gosodwyd gerbron Cynulliad Cenedlaethol Cymru *28 Chwefror 2017*

Yn dod i rym *10 Ebrill 2017*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 50, 52, 53(3), 57, 61, 64, 66, 67 a 196(2)(c) 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 (Dewis o Lety, Gosod Ffioedd ac Asesiad Ariannol) (Diwygiadau Amrywiol) (Cymru) 2017.

(2) Daw'r Rheoliadau hyn i rym ar 10 Ebrill 2017 ac maent yn gymwys o ran Cymru.

Diwygio Rheoliadau Gofal a Chymorth (Dewis o Lety) (Cymru) 2015

2. Mae Rheoliadau Gofal a Chymorth (Dewis o Lety) (Cymru) 2015(**2**) wedi eu diwygio fel a ganlyn—

(**1**) 2014 dccc 4.
(**2**) O.S. 2015/1840 (Cy. 268).

WELSH STATUTORY INSTRUMENTS

2017 No. 214 (W. 58)

SOCIAL CARE, WALES

The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017

Made *27 February 2017*

Laid before the National Assembly for Wales *28 February 2017*

Coming into force *10 April 2017*

The Welsh Ministers, in exercise of the powers conferred by sections 50, 52, 53(3), 57, 61, 64, 66, 67 and 196(2)(c) 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 (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.

(2) These Regulations come into force on 10 April 2017 and apply in relation to Wales.

Amendments to the Care and Support (Choice of Accommodation) (Wales) Regulations 2015

2. The Care and Support (Choice of Accommodation) (Wales) Regulations 2015(**2**) are amended as follows—

(**1**) 2014 anaw 4.
(**2**) S.I. 2015/1840 (W. 268).

(a) yn rheoliad 1(3) yn y lle priodol mewnosoder y canlynol—

"ystyr "byrdymor" ("*short term*") yw cyfnod nad yw'n hwy nag 8 wythnos;";

(b) yn rheoliad 2(a) ar ôl "Unedig" mewnosoder "nad yw'n llety byrdymor".

Diwygio Rheoliadau Gofal a Chymorth (Gosod Ffioedd) (Cymru) 2015

3. Mae Rheoliadau Gofal a Chymorth (Gosod Ffioedd) (Cymru) 2015(**1**) wedi eu diwygio fel a ganlyn—

(a) yn rheoliad 1(4)—

(i) hepgorer y diffiniad o "terfyn cyfalaf";

(ii) yn y lle priodol mewnosoder y canlynol—

"ystyr "terfyn cyfalaf perthnasol" ("*relevant capital limit*") yw'r uchafswm cyfalaf, a asesir yn unol â'r Rheoliadau Asesiad Ariannol, y caniateir i berson y codir ffi arno feddu arno gan ddibynnu pa un a oes arno angen gofal a chymorth preswyl neu amhreswyl, ac uwchlaw'r uchafswm hwnnw y bydd yn ofynnol i'r person hwnnw, yn unol â rheoliad 11, dalu'r ffi safonol yn llawn.";

(iii) yn y diffiniad o "terfyn ariannol" yn lle "terfyn cyfalaf" rhodder "terfyn cyfalaf perthnasol";

(b) yn rheoliad 7(1) yn lle "£60" rhodder "£70";

(c) yn rheoliad 8(3)(d) yn lle "(terfyn cyfalaf)" rhodder "(terfyn cyfalaf perthnasol)";

(d) yn rheoliad 9(1) yn lle "amhreswyl" rhodder "preswyl";

(e) yn rheoliad 11 (terfyn cyfalaf)—

(i) ym mharagraff (1) yn lle "terfyn cyfalaf" rhodder "terfyn cyfalaf perthnasol";

(ii) yn lle paragraff (2) rhodder—

"(2) Mae'r terfynau ariannol at ddibenion adran 66(5) o'r Ddeddf fel a ganlyn—

(a) y terfyn cyfalaf perthnasol at ddibenion gofal preswyl yw £30,000;

(b) y terfyn cyfalaf perthnasol at ddibenion gofal amhreswyl yw £24,000.";

(iii) ym mharagraff (3) yn lle "terfyn cyfalaf" rhodder "terfyn cyfalaf perthnasol";

(**1**) O.S. 2015/1843 (Cy. 271).

(a) in regulation 1(3) in the appropriate place insert the following—

""short term" ("*byrdymor*") means a period not exceeding 8 weeks.";

(b) in regulation 2(a) after "Kingdom" insert "which is not short term".

Amendments to the Care and Support (Charging) (Wales) Regulations 2015

3. The Care and Support (Charging) (Wales) Regulations 2015(**1**) are amended as follows—

(a) in regulation 1(4)—

(i) omit the definition of "capital limit";

(ii) in the appropriate place insert the following—

""relevant capital limit" ("*terfyn cyfalaf perthnasol*") means the maximum amount of capital, assessed in accordance with the Financial Assessment Regulations, which a chargeable person may have depending on whether their need is for care and support which is residential or non-residential, above which that person will be required, in accordance with regulation 11 to meet the standard charge in full;";

(iii) in the definition of "financial limit" for "capital limit" substitute "relevant capital limit";

(b) in regulation 7(1) for "£60" substitute "£70";

(c) in regulation 8(3)(d) for "(capital limit)" substitute "(relevant capital limit)";

(d) in regulation 9(1) for "non-residential" substitute "residential";

(e) in regulation 11 (capital limit)—

(i) in paragraph (1) for "capital limit" substitute "relevant capital limit";

(ii) for paragraph (2) substitute—

"(2) The following are the financial limits for the purposes of section 66(5) of the Act—

(a) the relevant capital limit for the purposes of residential care is £30,000;

(b) the relevant capital limit for the purposes of non-residential care is £24,000.";

(iii) in paragraph (3) for "capital limit" substitute "relevant capital limit";

(**1**) S.I. 2015/1843 (W. 271).

(iv) ym mhennawd rheoliad 11 yn lle “Terfyn cyfalaf” rhodder “Terfyn cyfalaf perthnasol”;

(f) yn rheoliad 13 (isafswm incwm ar gyfer person y darperir llety iddo mewn cartref gofal), yn lle “£26.50” rhodder “£27.50”;

(g) yn rheoliad 15 (dyfarniad diwygiedig), yn lle paragraff (2) rhodder—

“(2) Pan fo awdurdod lleol yn gwneud dyfarniad pellach o allu A i dalu ffi yn unol â’r rheoliad hwn—

(a) rhaid iddo ddarparu datganiad o’r dyfarniad diwygiedig i A; a

(b) rhaid iddo ad-dalu i A unrhyw ordaliad am ofal a chymorth a ddarparwyd neu a drefnwyd cyn y dyfarniad diwygiedig; neu

(c) caiff ei gwneud yn ofynnol i A dalu unrhyw ffi ychwanegol am ofal a chymorth a ddarparwyd neu a drefnwyd cyn y dyfarniad diwygiedig.” ;

(h) yn rheoliad 22(1) yn lle “£60” rhodder “£70”;

(i) yn rheoliad 23(3)(d) yn lle “(terfyn cyfalaf)” rhodder “(terfyn cyfalaf perthnasol)”;

(j) yn rheoliad 26 (terfyn cyfalaf – taliadau uniongyrchol)—

(i) ym mharagraffau (1) a (2) yn lle “terfyn cyfalaf” rhodder “terfyn cyfalaf perthnasol”;

(ii) ym mhennawd rheoliad 26 yn lle “Terfyn cyfalaf – taliadau uniongyrchol” rhodder “Terfyn cyfalaf perthnasol – taliadau uniongyrchol”;

(k) yn rheoliad 28 (isafswm incwm ar gyfer person y darperir llety iddo mewn cartref gofal) yn lle “£26.50” rhodder “£27.50”;

(l) yn rheoliad 30 (dyfarniad diwygiedig – taliadau uniongyrchol) yn lle paragraff (2) rhodder—

“(2) Pan fo awdurdod lleol yn gwneud dyfarniad pellach o allu B i dalu cyfraniad neu ad-daliad yn unol â’r rheoliad hwn—

(a) rhaid iddo ddarparu datganiad o’r dyfarniad diwygiedig i B; a

(b) rhaid iddo ad-dalu i B unrhyw ordaliad o gyfraniad neu ad-daliad a wnaed cyn y dyfarniad diwygiedig; neu

(iv) in the heading of regulation 11 for “Capital limit” substitute “Relevant capital limit”;

(f) in regulation 13 (minimum income amount where a person is provided with accommodation in a care home), for “£26.50” substitute “£27.50”;

(g) in regulation 15 (revised determination),for paragraph (2) substitute—

“(2) Where a local authority makes a further determination of A’s ability to pay a charge in accordance with this regulation—

(a) it must provide A with a statement of the revised determination; and

(b) it must reimburse A for any overcharge for care and support which was provided or arranged before the revised determination; or

(c) it may require A to pay any additional charge for care and support which was provided or arranged before the revised determination.”;

(h) in regulation 22(1) for “£60” substitute “£70”;

(i) in regulation 23(3)(d) for “(capital limit)” substitute “(relevant capital limit)”;

(j) in regulation 26 (capital limits-direct payments)—

(i) in paragraphs (1) and (2) for “capital limit” substitute “relevant capital limit”;

(ii) in the heading of regulation 26 for “Capital limit-direct payments” substitute “Relevant capital limit – direct payments”;

(k) in regulation 28 (minimum income amount where a person is provided with accommodation in a care home) for “£26.50” substitute “£27.50”;

(l) in regulation 30 (revised determination – direct payments) for paragraph (2) substitute—

“(2) Where a local authority makes a further determination of B’s ability to pay a contribution or reimbursement in accordance with this regulation—

(a) it must provide B with a statement of the revised determination; and

(b) it must reimburse B for any overcharge of a contribution or reimbursement made before the revised determination; or

(c) caiff ei gwneud yn ofynnol i B dalu unrhyw gyfraniad neu ad-daliad ychwanegol mewn perthynas ag unrhyw daliadau a wnaed cyn y dyfarniad diwygiedig.”

Diwygio Rheoliadau Gofal a Chymorth (Asesiad Ariannol) (Cymru) 2015

4. Mae Rhan 1 (symiau sydd i’w diystyru) o Atodlen 1 (symiau sydd i’w diystyru wrth gyfrifo incwm) i Reoliadau Gofal a Chymorth (Asesiad Ariannol) (Cymru) 2015(**1**) wedi ei diwygio fel a ganlyn—

(a) yn lle paragraff 16 rhodder—

“**16.** Unrhyw swm a ddiystyrid o dan baragraff 16 o Atodlen 9 i’r Rheoliadau Cymhorthdal Incwm (pensiynau penodedig) ac eithrio paragraff 16(a) ac (cc), ond fel pe bai’r cyfeiriad ym mharagraff 16 o’r Atodlen honno at baragraffau 36 a 37 o Atodlen 9 i’r Rheoliadau Cymhorthdal Incwm yn gyfeiriad at baragraff 46 o’r Atodlen hon.”;

(b) ar ôl paragraff 16 mewnosoder—

“**16A.** Unrhyw daliad a geir o dan y Pensiwn Anabledd Rhyfel.”

(c) it may require B to pay any additional contribution or reimbursement in relation to any payments made before the revised determination.”

Amendment to the Care and Support (Financial Assessment) (Wales) Regulations 2015

4. Part 1 (sums to be disregarded) of Schedule 1 (sums to be disregarded in the calculation of income) to the Care and Support (Financial Assessment) (Wales) Regulations 2015(**1**) is amended as follows—

(a) for paragraph 16 substitute—

“**16.** Any amount which would be disregarded under paragraph 16 of Schedule 9 to the Income Support Regulations (specified pensions) save for paragraph 16(a) and (cc), but as if the reference in paragraph 16 of that Schedule to paragraphs 36 and 37 of Schedule 9 to the Income Support Regulations were a reference to paragraph 46 of this Schedule.”;

(b) after paragraph 16 insert—

“**16A.** Any payment received under the War Disablement Pension.”

Rebecca Evans

Gweinidog Iechyd y Cyhoedd a Gwasanaethau Cymdeithasol o dan awdurdod Ysgrifennydd y Cabinet dros Iechyd, Llesiant a Chwaraeon, un o Weinidogion Cymru

27 Chwefror 2017

Minister for Social Services and Public Health under authority of the Cabinet Secretary for Health, Well-being and Sport, one of the Welsh Ministers

27 February 2017

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(**1**) O.S. 2015/1844 (Cy. 272).

(**1**) S.I. 2015/1844 (W. 272).

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SOCIAL CARE, WALES

Rheoliadau Gofal a Chymorth (Dewis o Lety, Gosod Ffioedd ac Asesiad Ariannol) (Diwygiadau Amrywiol) (Cymru) 2017

The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017

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