

2015 No. 313

SOCIAL CARE, ENGLAND

The Care and Support (Eligibility Criteria) Regulations 2015

Made - - - - *11th February 2015*

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 13(7) and (8) and 125(7) and (8) of the Care Act 2014^(a).

In accordance with section 125(4)(a) of the Care Act 2014, a draft of these Regulations was laid before Parliament and was approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Care and Support (Eligibility Criteria) Regulations 2015 and come into force immediately after section 13(7) of the Care Act 2014 comes fully into force^(b).

Needs which meet the eligibility criteria: adults who need care and support

2.—(1) An adult's needs meet the eligibility criteria if—

- (a) the adult's needs arise from or are related to a physical or mental impairment or illness;
- (b) as a result of the adult's needs the adult is unable to achieve two or more of the outcomes specified in paragraph (2); and
- (c) as a consequence there is, or is likely to be, a significant impact on the adult's well-being.

(2) The specified outcomes are—

- (a) managing and maintaining nutrition;
- (b) maintaining personal hygiene;
- (c) managing toilet needs;
- (d) being appropriately clothed;
- (e) being able to make use of the adult's home safely;
- (f) maintaining a habitable home environment;
- (g) developing and maintaining family or other personal relationships;
- (h) accessing and engaging in work, training, education or volunteering;
- (i) making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and

(a) 2014 c.23. The powers to make regulations are exercisable by the Secretary of State, *see* section 125(1).

(b) Section 13(7) was commenced on 1 October 2014 for the purposes of making regulations by S.I. 2014/2473.

(j) carrying out any caring responsibilities the adult has for a child.

(3) For the purposes of this regulation an adult is to be regarded as being unable to achieve an outcome if the adult—

- (a) is unable to achieve it without assistance;
- (b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
- (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or
- (d) is able to achieve it without assistance but takes significantly longer than would normally be expected.

(4) Where the level of an adult's needs fluctuates, in determining whether the adult's needs meet the eligibility criteria, the local authority must take into account the adult's circumstances over such period as it considers necessary to establish accurately the adult's level of need.

Needs which meet the eligibility criteria: carers

3.—(1) A carer's needs meet the eligibility criteria if—

- (a) the needs arise as a consequence of providing necessary care for an adult;
- (b) the effect of the carer's needs is that any of the circumstances specified in paragraph (2) apply to the carer; and
- (c) as a consequence of that fact there is, or is likely to be, a significant impact on the carer's well-being.

(2) The circumstances specified in this paragraph are as follows—

- (a) the carer's physical or mental health is, or is at risk of, deteriorating;
- (b) the carer is unable to achieve any of the following outcomes—
 - (i) carrying out any caring responsibilities the carer has for a child;
 - (ii) providing care to other persons for whom the carer provides care;
 - (iii) maintaining a habitable home environment in the carer's home (whether or not this is also the home of the adult needing care);
 - (iv) managing and maintaining nutrition;
 - (v) developing and maintaining family or other personal relationships;
 - (vi) engaging in work, training, education or volunteering;
 - (vii) making use of necessary facilities or services in the local community, including recreational facilities or services; and
 - (viii) engaging in recreational activities.

(3) For the purposes of paragraph (2) a carer is to be regarded as being unable to achieve an outcome if the carer—

- (a) is unable to achieve it without assistance;
- (b) is able to achieve it without assistance but doing so causes the carer significant pain, distress or anxiety; or
- (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the carer, or of others.

(4) Where the level of a carer's needs fluctuates, in determining whether the carer's needs meet the eligibility criteria, the local authority must take into account the carer's circumstances over such period as it considers necessary to establish accurately the carer's level of need.

Signed by authority of the Secretary of State for Health.

11th February 2015

Norman Lamb
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the eligibility criteria for the purposes of Part 1 of the Care Act 2014 (“the Act”).

When an adult is found to have care and support needs following a needs assessment under section 9 of the Act (or in the case of a carer, support needs following a carer’s assessment under section 10), the local authority must determine whether those needs are at a level sufficient to meet the “eligibility criteria” under section 13 of the Act. Sections 18 and 20 of the Act set out the duty of local authorities to meet those of an adult’s needs for care and support and those of a carer’s needs for support which meet the eligibility criteria. The above mentioned duties apply only to local authorities in England.

Regulation 2 sets out the eligibility criteria for adults who need care and support, and regulation 3 sets out the eligibility criteria for carers who need support.

A separate impact assessment has not been prepared for these Regulations. These Regulations are part of a package of legislative measures and the relevant impact assessment can be requested via careactconsultation@dh.gsi.gov.uk or the Department of Health, Richmond House, 79 Whitehall, London, SW1A 2NS and is available online at <https://www.gov.uk/government/organisations/department-of-health>.

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