

Freedom of Information Request

Request:

1. Please provide me the details of roles, responsibilities and accountabilities (separately for both NHSBSA & Employer trust) of NHSBSA and NHS Trust, in assessing, managing and providing Temporary Injury allowance to an employee?
2. How do you categorize specialist registrars for the purpose of calculation of TIA? I see that there is enough information on how to calculate TIA for GP and GP Trainees but Specialist registrars from secondary practice are not categorised separately but every doctor from secondary care is categorised as practitioner. Hence, am I right in saying that the Specialist registrars fall in to Practitioner Category?
3. If this is not the case then whichever category you suggest, specialist registrars should be categorised for the sake of TIA calculation, please give me the reference to the documents which you may have referred to for reaching that conclusion and provide appropriate reasoning to support your statement, why you categorised specialist registrars to any particular category, if not as practitioners.
4. Please advise- are the specialist registrars categorised as GP registrars? If they are not treated same as GP registrars then why not?
5. Please provide me the information as to, who has the accountability to provide details of calculations on how the TIA was calculated and paid? Does it lie with NHSBSA or the paying trust?
6. May I have hard copies of prevailing TIA rules and the prevailing NHS pension regulations please?
7. The word 'emoluments' is used in what circumstances- is it for calculation for TIA (irrespective of for who the TIA is being calculated, because it is given as a definition and not linked to any specific group as practitioner or non practitioner, or any other category?
This should mean the TIA is calculated on emoluments = (pensionable pay + other allowances which would otherwise the person may have if would have been working on as before he acquired injury).
8. Please advise how the TIA for specialist registrars is calculated? Is it based on the pensionable pay + other allowances which the person may have received if still working as before he acquired injury?

Status: Complete

Response Date: 04/01/2010

1. The Injury Benefit Regulations require the employer to pay Temporary Allowance (TIA Injury) where Regulation 4(5) is satisfied i.e. 'Where a person to whom regulation 3(1) applies is on leave of absence from an employment mentioned in that regulation with reduced emoluments by reason of the injury or disease, there shall be payable during the period of such leave an annual allowance of the amount, if any, which when added to the aggregate of—
2. (a) the emoluments payable to the person during his leave of absence, and

(b) the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6), will provide an income of 85 per cent of his average remuneration.'

In the first instance it is the duty of an employer to assess if there is entitlement to TIA. Should the employer require assistance or should there be a dispute between the employer and employee regarding the satisfaction of the medical criteria, NHSBSA can adjudicate. Once entitlement is established it is the duty of the employer to calculate and pay any TIA due.

2.3 and 4 –

Regulation 4(5) refers to an income of 85% of average remuneration.

The definition of average remuneration is in Part 1, part 2 of the IB Regulations:

"average remuneration" means—

(a) in relation to a person other than a practitioner, such amount as would be or would have been his final year's pensionable pay, within the meaning of regulation C1 (6) of the pensions scheme regulations, as an officer to whom those Regulations apply (assuming, in the case of a person to whom regulation 3(1)(c) applies, that he was in receipt of the pensionable pay which would, in the opinion of the Secretary of State, have been payable if he were employed whole-time by an employing authority on similar duties);

or

(b) in relation to a practitioner, the yearly average of such amount as would be or would have been his uprated earnings, within the meaning of paragraph 11(2) of Schedule 2 to the pension scheme regulations, as a practitioner to whom those Regulations apply;

Where you contend that you may be regarded as a Practitioner (under the terms of the IB Regulations), NHS Pensions' view is that you have never satisfied the definition of a Practitioner as legislated for under the Regulations because you have

never been a freelance GP Locum or Salaried GP of a GP Provider (i.e. GP Partner /single-hander).

Nor can any banding supplement that you may have received on top of your basic pensionable pay be taken into account when calculating the TIA. The IB Regs refer to pay as being pensionable pay (as defined under the NHSPS Regs) or, for persons who were not NHSPS members that which would have been pensionable pay.

There has been a long standing arrangement between the NHSPS and the medical profession (reiterated in TN4/2004) that the banding supplements for certain doctor staff grades are not regarded as pensionable income. These doctors only pay superannuation on their basic salary, which is usually to their advantage since this pay will never fall into the 'best of the last 3 years', except if they have to retire prematurely on ill health grounds or die in service.

However, IB Regulation 2 states,

'Provided that in respect of a person to whom regulation 3(1)(a) applies who, immediately before he ceased to be employed by reason for the injury or disease or as a person to whom regulation 3(1) applies, or immediately before the date on which his emoluments were reduced, as the case may be, was employed as a senior registrar, registrar, senior house officer or house officer, average remuneration shall be increased to the amount which in the opinion of the Secretary of State represents the average remuneration of a general medical practitioner, or a general dental practitioner, as the case may be, of comparable age'

NHS Pensions has confirmed that at the time you went off sick in May 2007 you were a '*senior registrar*' therefore your TIA allowance is not based on your actual pensionable pay but what a GP of similar age may have earned at the relevant time even though you may not have chosen a GP career. This used to be referred to as the 'IANI' however since the 2004 GP Contract there has been a new method of calculating GP dynamising factors and what would have been regarded as '*average remuneration of a general medical practitioner*'.

The NHS Pensions' injury benefit team has informed the BMA of this separately and asked for details of the person at the Trust responsible for the payment of TIA so that NHS Pensions can pass on this information

5. As the employer is responsible for paying TIA it is their responsibility to provide details of calculations. NHS Pensions' injury benefits team will provide these to the Trust based on the information at (2) above.

6. The Regulations covering Injury Benefits and NHS Pensions are freely available to download and print from the Internet. The Regulations covering Injury Benefits are available to view by visiting www.nhsbsa.nhs.uk/injury. The Regulations covering NHS Pensions are available to view by visiting www.nhsbsa.nhs.uk/pensions.

7 and 8 - The definition of emoluments is only used to define the date from which TIA can be paid. When TIA is actually calculated it is based upon the relevant average remuneration, in your own case taking into account the provisions of Regulation 2 of the NHS Injury Benefit Regulations 1995 as amended.