

NHS Pensions - Mental Health Officer status (1995 Section only)

History of Mental Health Officer status

Mental Health Officer (MHO) status is a historical provision that was introduced to compensate members caring for patients suffering from mental health disorders.

It was a continuation of arrangements which existed prior to the formation of the NHS in 1948, when treatment for mental health patients was different to today.

Benefits

1995 Section members who have 20 years MHO membership can:

- Retire from age 55 without any reduction to their 1995 Section benefits, providing they are still in pensionable MHO employment on the day before they retire.
- Count each complete year of MHO membership after building up 20 years, as two years for benefit purposes, known as 'doubling'.

Abolition of Mental Health Officer status

On 6 March 1995 the NHS Pension Scheme regulations were amended and MHO status was abolished for all members, however, an exception was made for members who already held MHO status on or before this date and who did not have a break in membership of 5 years or more.

MHO status does not apply in the 2008 Section or the 2015 Scheme. Members who transition from the 1995 Section to the 2015 Scheme may still maintain MHO status – this is important in respect of the 1995 Section benefits.

Eligibility

In order to be considered for the status a member must:

- Spend all, or almost all, of their time in the direct treatment or care of those suffering from mental disorders.
- Hold active (counting towards pension benefits) 1995 Section membership as a MHO on or before 6 March 1995.

- Not had a single break of five or more years in employment after 6 March 1995.

In order to request MHO status your employer must complete an application form at the time you join this Scheme and send this to NHS Pensions.

It is recommended that all members with MHO, including Doctors and nurses, inform their employer of their status when changing job and or employer.

NHS Pensions rely on the information being provided by the employer but where there is a dispute about eligibility NHS Pensions has the final say.

Eligibility following a break

In pensionable employment on 6 March 1995

If a member was in pensionable employment (contributing to the 1995 Section) on 6 March 1995 as an MHO they may, depending on their age, qualify for MHO status on rejoining the 1995 Section in employment which attracts the status, as long as they do not have a break in pensionable employment of any one period of five years or more. This is the case even if they subsequently receive a refund of contributions, transfer benefits out of the Scheme or retire.

Not in pensionable employment on 6 March 1995

If a member had deferred benefits as an MHO member on 6 March 1995 they may, depending on their age, qualify for MHO status on rejoining the 1995 Section in employment which attracts the status, as long as they do not have a break in pensionable membership of any one period of five years or more.

Note: If the member had transferred benefits out of the Scheme, received a refund or retired as a MHO member prior to 6 March 1995 then they are not eligible for the status on returning to pensionable employment.

Criteria to claim 1995 Section benefits from age 55

In order to claim a 1995 Section pension from age 55 a member must:

- Have achieved at least 20 years qualifying MHO membership. This does not need to be continuous and can include work outside the NHS (see under 'MHO work done outside the NHS').
- Be an active MHO on the day immediately prior to retirement.
- All NHS work must cease for at least a 24 hour break including any 2015 Scheme membership where a member has transitioned over.

Any membership in the 2015 NHS Pension Scheme would become deferred until the member's Normal Pension Age unless the member claimed a voluntary early reduced pension.

When a member leaves pensionable employment before age 55, benefits become deferred and do not become payable until the **normal pension age of 60** in the 1995 Section.

Redundancy - An exception to this is a MHO who is made redundant and is not in receipt of a redundancy pension. In these circumstances a member with **deferred benefits** may claim these benefits at age 55 if all other criteria is met and they did not return to a pensionable non MHO employment.

Transition to the 2015 Scheme

Although MHO status is not applicable to 2015 Scheme membership, it will still be recorded to establish the retirement criteria from age 55 for those members who hold rights in the 1995 Section. MHO membership counting towards doubling will cease when you move to the 2015 Scheme.

1995 Section members holding MHO status who either move straight into the 2015 Scheme or do so following the end of a period of Tapered Protection and who do not exceed a break of five years or more, will have a final salary link for the purpose of the 1995 Section pension benefits.

If the final salary link is maintained and the criteria to retire at age 55 for MHO purposes is met, the 1995 Section benefits can be claimed once all NHS employment ends. Any 2008 Section or 2015 Scheme benefits would be calculated as normal and if being paid before the Normal Pension Age would attract an actuarial reduction.

Part time membership

Originally a 1995 Section member had to be whole time to qualify for MHO status. However, part time members were granted the status in certain circumstances. MHO status was backdated to 8 April 1976 for part timers who made a valid application to an Employment Tribunal and for those members who were contributing to the 1995 Section on 14 January 1999. A member who was not in pensionable employment on 14 January 1999 but subsequently rejoined the 1995 Section after that date will still be entitled to have MHO status considered for current and future periods of part time membership, subject to fulfilling the other criteria.

Mental Health Officer work done outside the NHS

Some periods of work with mental health patients which does not count towards a member's pension may count towards the 20 years required to double membership. This includes:

- membership no longer reckonable in the NHS Pension Scheme, e.g. membership refunded or transferred out of the Scheme,
- work with mental health patients outside the NHS (including some work in government approved premises outside the UK).

When considering whether this membership counts towards a member's doubling date, doubling cannot commence from a date prior to entry to the NHS Pension Scheme or prior to age 50. You would only benefit from this if you were an active (counting towards pension benefits) MHO on or before 6 April 1995 and have not had a single break of five or more years since.

A member should contact NHS Pensions directly using the dedicated application form if they believe they have membership which may count towards their doubling date. They should include documentary evidence, such as job descriptions, person specifications or letters of appointment to enable NHS Pensions to investigate further.

Clinical Commissioning Groups (CCG's)

NHS Pensions understands that CCG's are mainly involved in the commissioning of services from other providers and are not normally directly involved in the actual care and treatment of patients i.e. they do not directly administer wards, (nursing) homes, clinics, etc. or employ staff who work in such places. Therefore, as a general rule, and although qualified staff may be employed, NHS Pensions expects that the majority of CCG employees will be regarded as individuals employed in an administrative capacity and not in a role where MHO status would apply.

Should a CCG employ a member who may retain MHO status (see Retention of Mental Health officer status) an application for retention must be made.

Retention of Mental Health Officer status

Historically, following management restructuring within the NHS, representations were made to allow Scheme members who were appointed to posts which, although within nursing, were managerial in character, to retain MHO status. Guidelines were developed to enable employers to make decisions on retention of MHO status.

Criteria for retention of Mental Health Officer status

When considering whether a member is entitled to retain MHO status they:

- must have clear line management responsibility for ward nursing staff and consequently a responsibility for the treatment or care of patients suffering from mental health disorders.

Entitlement to retain the status will be strengthened if:

- a member's responsibilities include setting and monitoring standards of psychiatric nursing and development and training of nursing staff under their control.

Retention of MHO status applies to those working in mental health trusts and units catering primarily for patients suffering from mental health disorders. Those who are employed in units which do not cater primarily for those with mental health disorders will not normally be allowed to retain MHO status.

A member must have held the status in the post directly before the post in which they wish to 'retain' the status.

Retention of MHO status cannot usually be considered when a member's previous job was not within nursing. This is because the grades of staff they are managing do not always automatically qualify for Mental Health Officer status in their own right.

Decision making

The decision about whether a member can retain MHO status can be made by the employer for a member who is appointed to any nursing post up to the grade of Director of Nursing (or equivalent) only. Members above this grade will not normally be allowed to retain the status as it is extremely unlikely they will fulfil the criteria.

A member who believes they fulfil the criteria to retain MHO status should therefore contact their employer in the first instance who will make the decision and contact NHS Pensions for confirmation.

If an employer has any doubts about whether a particular member can retain MHO status, they will contact NHS Pensions providing copies of the current and former job descriptions together with any other information considered relevant to the application.

Should an employer believe a specific member at the grade of Director of Nursing or above exceptionally warrants the status, they must contact NHS Pensions providing the supporting information detailed above.

Investigations into retention of MHO status should be done at, or before the time a member commences the role. NHS Pensions would not expect these investigations to be commenced just prior to retirement.

When deciding whether a member can retain MHO status consideration is being given to whether the particular member can retain MHO status in that role. This does not necessarily mean that MHO status would apply automatically to any other member subsequently undertaking the role.

In all cases of retention NHS Pensions maintain the right to make the final decision.

Restriction of Mental Health Officer membership

A member with MHO status is restricted to 40 years pensionable membership at age 55 and 45 years overall.

When the maximum 45 years pensionable membership is reached before age 60 a MHO must continue to pay contributions until age 60, unless they opt out of the 1995 Section or retire and claim their pension benefits.

Where maximum 45 years pensionable membership is reached after age 60, but before 65, a member must stop paying contributions when 45 years pensionable membership has been achieved.

All MHO must cease paying contributions at age 65 regardless of the amount of pensionable membership they have achieved.

In all cases pension benefits are not payable until a member leaves NHS employment and retires or on reaching age 75 (or 70 on or before 31 March 2008) whichever is earlier.

Alternative benefit calculation

Benefits are usually based on pensionable pay up to the date contributions stopped. However, the NHS Pension Scheme regulations allow for an alternative calculation for MHOs who cease to be pensionable but have continued to work in the NHS before taking retirement benefits.

In these circumstances, if more beneficial, the regulations allow benefits to be calculated using straight membership (no doubled years) and a later pensionable pay figure. The later pensionable pay figure and the straight membership total would be assessed at whichever of the following events happened first:

- retirement;
- reaching upper pensionable age 65;
- the achievement of 45 years actual membership (not including doubled years);
- death.

If benefits using this method are more beneficial, then the regulations also allow outstanding contributions to be deducted from the retirement or death benefit lump sum.

Process for applying for Mental Health Officer status

- Read the information provided in this factsheet to check if you may be eligible for MHO status.
- Telephone our customer contact centre to confirm whether the status is already recorded on our records.
- If required download the SM MHO enquiry form.

Where possible, members should query MHO status direct with the relevant employer using form SM MHO and completing the attached 'Form A'. The Employer Directory located in the Members Hub can be used to look up the address or our customer contact centre may be able to help you.

Where a member is eligible, the employer will provide NHS Pensions with employment details using the relevant employer application forms.

MHO Form B should only be used to contact NHS Pensions if the employer cannot be located or when non pensionable or non NHS MHO employment is being queried.

NHS employers cannot keep records indefinitely so an enquiry is best made when commencing a new employment. MHO status can still be requested retrospectively if it wasn't identified during the employment but it must be noted that where a request has previously been rejected, further requests should not be made unless new supportive evidence is available.