NHS Pensions

Abatement - Basic overview for employers

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Background

Abatement is the name of the process whereby a member's NHS pension is reduced pound for pound if their earnings on re-employment in the NHS, plus the unearned element of their NHS pension, exceed their pre-retirement NHS pensionable earnings.

Following a review of the NHS Pension Scheme, a new abatement formula was introduced for most retirements when the pension is payable from 2 April 2008 onwards. The following guidance is based on the new formula.

The new formula applies to all pensioners who are in receipt of a *'relevant pension'* and who returned to work (or continued working) in the NHS before their normal pension age.

For this purpose a '*relevant pension'* is as follows:

1995 Section members:

- Special class and Mental Health Officer (MHO) non-age retirements
- Ill health retirement (Tier 1 and 2)
- Early payment of deferred benefits due to ill health - where the employment ended on or after 1 April 2008
- Redundancy – with a payable date up to 30/09/2011 only where enhanced benefits are paid under transitional protection arrangements
- Early retirement in the interests of the efficiency of the service. This is because there is no severance pay so the employer funds the early payment of benefits.

Where abatement applies in the 1995 Section, it will continue until the pensioner reaches age 60.

2008 Section members:

- Ill health Tier 1 or Tier 2
- Early payment of deferred benefits due to ill health
- Early retirement in the interests of the efficiency of the service. This is because there is no severance pay so the early payment of benefits is funded by the employer.

Where abatement applies in the 2008 Section it will continue until the pensioner reaches age 65.

2015 Scheme members:

- Ill health tier 1 and tier 2 pension
- Early payment of deferred pension benefits due to ill health
- Early retirement in the interests of the efficiency of the service. This is because there is no severance pay so the early payment of benefits is funded by the employer.

Where abatement applies in the 2015 Scheme it will continue until the pensioner reaches their normal pension age. This is age 65 or their State Pension Age, whichever is later.

1995 Section – pensions subject to the previous abatement formula

Some current and former members are still subject to the previous formula, which is the pension plus new earnings must not exceed the earnings prior to retirement. They are:

- Special classes - the review considered the position of the special classes and concluded that those who were eligible should retain the right to retire with unreduced benefits from age 55. Therefore, where abatement applies to a member of the special classes taking age retirement before reaching age 60, it will continue to be assessed under the previous formula, irrespective of the date on which pensionable employment ended.

- Deferred members and pensioners - the Regulations, which introduced the new abatement formula, came into force on 1 April 2008. Deferred members and pensioners who left pensionable employment before that date will, when it applies, also have abatement assessed under the previous formula.

Where the previous abatement formula applies to these groups it will continue until the pensioner reaches age 60.

How is abatement calculated under the old formula?

Abatement will apply if:

Pension + new earnings exceed the earnings prior to retirement

The earnings prior to retirement are the best of the last three year's pensionable pay provided on the AW8 retirement application form considered against the member's annual rate of pay at last day of service. For part-timers the highest actual pay may be in a different year to the whole time equivalent. Whichever out of the pensionable pay or annual rate is the highest will be deemed as the member's pre-retirement earnings.

If their new earnings on re employment and their pension exceeded their earnings prior to their retirement, their pension would be abated £1 for £1 until age 60. The pre-retirement earnings are subject to cost of living increases where applicable each year.

Important: The new abatement formula applies to members of the special classes in receipt of ill health or redundancy benefits because they did not retire under the special classes early retirement provisions. If the last day of membership is prior to 1 April 2008 then the previous abatement formula is applied.

How is abatement calculated under the new formula?

Abatement will apply if the:

Unearned Pension + New Earnings = more than the Previous Pay.

Calculation for members in the 1995 Section:

Where abatement applies in the 1995 Section it will continue until the pensioner reaches age 60.

➡ ⋯ Step 1 - Calculate the unearned pension

This is the difference between the pension the member became entitled to at retirement and an actuarially reduced pension calculated at the same date.

The calculation includes pension commuted to provide a lump sum but excludes extra membership awarded in ill health retirement.

The resulting pension is then multiplied by the relevant 'factor' which is taken from the appropriate factor table (provided by the Scheme's Actuary). The product of this is the **earned** part of the pension.

The earned pension is then deducted from the pension that the member was entitled to at retirement. Any extra pension awarded for ill health retirement/transitional redundancy is included and the product is the **unearned** pension.

➡ ⋯ Step 2 - Calculate the new earnings

These are the NHS earnings that the member is receiving following retirement. Earnings from both new and continuing employments must be included in the calculation.

➡ ⋯ Step 3   Calculate the previous pay

This is the NHS pay the member was receiving immediately before retirement. It can be either the final year's pensionable pay* or the annual rate of pay, whichever is the greater.

If abatement is required, the maximum reduction that can be applied is the value of unearned part of the pension.

*Final year's pensionable pay is defined in the Scheme Regulations as the best of the last three years. The best year for abatement purposes may be a different year to that used in the calculation of the retirement benefits.

Pension Debit

Any Pension Debit is deducted (i.e. not included in the calculation) for abatement purposes.

Pension Credit

Any Pension Credit is ignored for abatement purposes.

Allocation

Pension given up to provide for a pension to be paid after the death of the member is not part of the unearned pension.

Lifetime Allowance and Scheme Pays deductions when calculating abatement

If the unearned element of the pension must be calculated following adjustments to take account of a Lifetime Allowance or Annual Allowance tax charge, it should be the original unadjusted pension benefits that are taken into account.

Suspension of NHS pension benefits applies in this scheme.

Calculation for members in the 2008 Section:

Where abatement applies in the 2008 Section it will continue until the pensioner reaches age 65.

Applying the new formula in the 2008 Section

The approach to abatement in the 2008 Section is comparable to the 1995 Section. However, in this section the previous pay is the greater of either the actual reckonable pay (average of the best three consecutive years in the last 10) or the annual rate of pay.

Commutation of pension to lump sum

In all cases, the pension to be taken into account when assessing whether abatement will apply is that before any commutation to provide additional lump sum. Giving up pension will not therefore reduce the amount of unearned pension.

There is no suspension in the 2008 Section.

Calculation for members of the 2015 Scheme:

The abatement rules for 2015 Scheme members are broadly the same as the 2008 Section members.

Abatement continues until the pensioner reaches their normal pension age in the 2015 Scheme. If the member has entered into an Early Retirement Reduction Buy Out (ERRBO) agreement the factors applied to the member's pension are referenced against their reduced pension age. There is no suspension in the 2015 Scheme.

Choice Optants

There are also some differences to the abatement calculation when someone moved to the 2008 Section after exercising their Choice option.

Although the 2008 Section does not normally provide a lump sum, those who elected to move must receive the mandatory lump sum they built up in the 1995 Section up to 31 March 2008.

A reduction is applied to the 2008 Section pension to pay for the mandatory lump sum. As the lump sum is mandatory, the pension reduction is not subject to abatement and is excluded from the calculation of the unearned pension.

Important: If the member chooses to increase the mandatory lump sum, the pension commuted is subject to abatement and included in the calculation of the unearned pension.

In other words, the pension assessed for abatement is that after the deduction for the mandatory lump sum but before any further commutation.

Members who transition to the 2015 Scheme with a final salary link

Members who have transitioned to the 2015 Scheme with a final salary link and whose pension is subject to abatement will remain so until they reach their normal pension age for each Section/Scheme. For example, a member who transitioned from the 1995 Section to the 2015 Scheme will have the 1995 Section element subject to abatement until age 60. However, the 2015 Scheme element of the pension will remain subject to abatement until they reach their normal pension age of the 2015 Scheme.

Direction employment

Although not directly employed by the NHS, pensioners who return to employment or start work for the first time with certain Direction employers may be subject to abatement.

Those affected include pensioners who would otherwise satisfy the normal conditions to be a member of the Scheme with the direction employer, but who are not eligible to join because they are already in receipt of their pension.

In summary, where a Scheme pensioner returns to (or joins) a Direction employer, their NHS pension benefits may be suspended or abated if any of the following occur:

- The employee would have potentially been eligible for NHS Pension Scheme membership, under the terms of the Direction, had they not been in receipt of their pension benefits.
- The re-employment (new employment) is in respect of the provision of NHS services or NHS Funded services.

Example: Payable date on or after 01/05/2014

Factors used have been taken from the Government Actuaries Department (GAD) Abatement tables dated 10 March 2014.

1995 Section active/deferred Tier 1 with Added Years for payable dates on or after 23/03/2011

Date of birth: 18/04/1959   Disallowed days: 0:001

Payable date: 02/06/2014   Pension factor AB1: 0.793

Age at payable date: 55 years 1 month   Added Years factor AB1/AB2/AB5: 0.793

Pension in payment:

Basic	=	£36,567.41
Enhancement	=	£0.00
Added Years	=	£5,743.01
Total pension	=	£42,310.42	**(A)**

Actuarially reduced voluntary early retirement (ARVER) pension:

Basic membership = 28 years 95 days

Added Years =

- Intended purchase (to age 60) = 1903 days   **(B)**
- Actual period of payment = 5323 day   **(C)**
- Intended period of payment = 7665 days   **(D)**
- $\dfrac{B \times C}{D}$ = 1322 days

Pension $= \dfrac{£103,516.07 \times 10315}{29200}$ = £36,567.41 x Factor AB1

$= £36,567.41 \times 0.793 = £28,997.96$ **(E)**

Added Years $= \dfrac{£103,516.07 \times 1322}{29200}$ = £4,686.58 x Factor AB1

$= £4.686.58 \times 0.793 = £3,716.46$ **(F)**

Total pension (**E + F**) $=$ = £28,997.96 + £3,716.46 = £32,714.42 earned pension   **(G)**

Unearned element of pension
£42,310.42 (**A**) - £32,714.42 (**G**) = £9,596.00

Retire and return, and suspension

There are certain rules that may apply to members intending to return to work following normal or early retirement, excluding partial retirement (draw down):

- If they intend to return to work following retirement they must take a 24 hour break
- The break is a termination of the contract, not annual leave
- The break can be applicable to members in all sections and schemes
- Members claiming pension benefits from the 1995 Section may not be eligible to rejoin the NHS Pension Scheme following retirement

If a member retires from the 1995 Section on grounds of Age, Voluntary Early Retirement or claims their deferred 1995 Section benefits and works in the NHS for **more** than 16 hours a week within one calendar month of retirement, their pension may be suspended from the day the work begins and they should advise Equiniti Paymaster of their re-employment immediately. The lump sum (if applicable) is unaffected. Equiniti Paymaster will restart the pension when the member:

- works 16 hours or less a week for at least one full calendar month, **or**
- has a break in their contract of at least one full calendar month, **or**
- stops working in the NHS, **or**
- reaches age 70, if the suspended pension commenced payment before 1 April 2008, **or**
- reaches age 75, if the suspended pension commenced payment on or after 1 April 2008.

The suspension rule also applies to deferred members who claim their pension before age 60 and return to NHS employment in the first calendar month working more than 16 hours.

For information on who is effected by the 24 hour break rule, including a detailed flow chart please see the Retire and Return guide on our website.

Members of the 1995 Section who hold more than one NHS pensionable employments at retirement are only required to take a 24 hour break in one of them, providing the remaining post does not exceed 16 hours per week. The member must cease to be pensionable in the remaining posts.

If the remaining posts exceed 16 hours per week, then the member will be required to retire and take a 24 hour break from at least one or all of these posts.

Members of the 2008 Section or 2015 Scheme must cease all NHS employment to claim their NHS pension from that Section/Scheme.