

NHS Pension Scheme

Ill health guide for employers



Disclaimer

The information contained in this guide has been prepared by the Stakeholder Engagement Team (SET) of the National Health Service Business Services Authority (NHSBSA).

It represents the relevant National Health Service Pensions Scheme Regulations and should not be treated as a complete and authoritative statement of the law.

No responsibility whatsoever will be assumed by the NHSBSA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this guide.

Whilst every attempt is made to ensure the accuracy of the guide, it would be helpful if employers could bring to our attention any perceived errors or omissions using the contact details on our website.

For more information or to access our contact details, visit: www.nhsbsa.nhs.uk/employer-hub

Contents

Ill health benefits – eligibility.....	4
Levels of ill health retirement benefits	5
How to apply	7
Ill health application – assessment.....	10
Ill health retirement accepted – Completing the AW8 retirement benefits claim form	13
Ill health retirement application - sick leave and career breaks.....	17
Where a member dies after being accepted for ill health retirement.....	18
Serious ill–health - commuted ill health retirement benefits.....	19
HMRC severe ill health condition test.....	22
Re-employment – abatement.....	23
Returning to work after ill health retirement.....	24
Tier 2 annual review.....	26
Additional pension purchase	27

Ill health benefits – eligibility

Members who have two years or more NHS Pension Scheme membership in the 1995/2008 section and/or 2015 Scheme may be able to apply for ill health retirement benefits.

The application for ill health retirement will be considered by the Scheme's medical advisers and depending on their decision, if the application for ill health retirement benefits is successful, the member may be entitled to:

- claim their benefits early unreduced
- receive early payment of ill health benefits including enhancements or,
- a combination of both of the above

More information about the different levels of benefits is included later in this guide.

For ill health retirement purposes, the normal pension age (NPA) used to calculate any enhancement to pension benefits for members who hold special class status and/or mental health officer status, is age 60.

Ill health retirement benefit provisions are limited to those members who have not reached their normal pension age. In order to be considered for entitlement to ill health retirement benefits the member's last day of scheme membership must be before their 60th birthday if they are in the 1995 Section, their 65th birthday in the 2008 Section, and before state pension age or age 65 if this is later, if they are a 2015 Scheme member.

There is no minimum pension age for members applying for ill health retirement benefits.

Levels of ill health retirement benefits

There are two levels (tiers) of ill health retirement benefits (tier 1 and tier 2). We will seek advice from the Scheme's medical advisers who will assess whether the member meets the legislative requirements for tier 1 benefits and if so whether they also meet the criteria for tier 2 benefits.

The tier of ill health retirement and the benefits the member will receive depends on whether they meet the conditions listed in the table below.

In assessing entitlement, the factors that will be taken into account are:

- whether the member has received appropriate medical treatment in respect of the incapacity
- their mental and physical capacity
- type and period of rehabilitation which it would be reasonable for them to undergo in respect of their incapacity (irrespective of whether such rehabilitation occurs)
- any other matter which the Secretary of State considers to be appropriate

The Scheme's medical advisers will disregard the member's personal preference for or against working in their NHS employment or engaging in any particular employment.

1995 Section

Tier	Criteria	Entitlement
Tier 1	Permanently incapable of efficiently discharging the duties of the NHS employment	Pension will be paid based on scheme membership accrued without reduction. No enhancement to benefits
Tier 2	In addition to meeting the tier 1 condition the member is also permanently incapable of engaging in regular employment of like duration to their NHS employment.	Tier 1 benefits, plus an enhancement of two thirds of prospective membership to age 60. Total membership may not exceed prospective membership at 60.

2008 Section

Tier	Criteria	Entitlement
Tier 1	Permanently incapable of efficiently discharging the duties of the NHS employment	Pension will be paid based on scheme membership accrued without reduction. No enhancement to benefits.
Tier 2	In addition to meeting the tier 1 condition the member is also permanently incapable of engaging in regular employment of like duration to their NHS employment.	Tier 1 benefits, plus an enhancement of two thirds of prospective membership to age 65. Total membership may not exceed prospective membership at 65.

2015 Scheme

Tier	Criteria	Entitlement
Tier 1	Permanently incapable of efficiently discharging the duties of the NHS employment	Pension already earned will be paid unreduced. No enhancement of benefits.
Tier 2	In addition to meeting the tier 1 condition the member is also permanently incapable of engaging in regular employment of like duration to their NHS employment.	Tier 1 plus the 'tier 2 addition' which is an enhancement based on one half of prospective membership to the member's State Pension age or age 65 if this is later.

How to apply

Members in active pensionable employment

Form AW33E is completed for consideration of entitlement to ill health retirement benefits where members with qualifying membership are still in pensionable NHS employment and ill health is a contributing factor to their contract being terminated.

The AW33E is issued by the employer and should be completed, in full by:

- the employer (Part A)
- the member (Part B), and
- the Occupational Health Doctor, GP or Consultant (Part C).

You must ensure part A is fully completed and includes a copy of the relevant job description.

Part C should be completed by a registered medical practitioner and should include supporting occupational health reports. Part C guidance notes are available on the website to assist with the completion of AW33E.

When to apply

We recognise some organisations may use third party payroll providers, separate HR departments/occupational health and pension departments. We also appreciate this is a very sensitive area for many employees. With this in mind and to avoid delays we would suggest you/HR department start to consider initiating the ill health process when the member commences half pay, if this is considered appropriate and dependent upon the medical condition and treatment the member is having.

Ending the contract of employment

Members applying for ill health retirement who are in pensionable NHS employment can only apply if ill health is a contributing factor to their contract of employment being terminated. You must therefore ensure that the member's pension record is closed using exit code 04 as the reason for leaving.

During the ill health retirement process, we suggest that you keep your employee as an employee and not end their employment until the ill health application has been assessed and the decision notified. This is because whilst the member is still an employee, even if they are on long term sick absence and are not receiving pay, they remain entitled to death in service benefits.

A decision by you to terminate a member's employment will not automatically lead to payment of ill health retirement benefits. Whilst as an employer, you may have other considerations that could prompt you to consider terminating the employment, for example immediate resource requirements. The Scheme Regulations require that a member is permanently incapable of efficiently performing the duties of their job to their normal pension age.

Members who have opted out of the Scheme and remain in NHS employment

A member who is not actively contributing to the NHS Pension Scheme cannot be awarded entitlement to tier 2 ill health benefits as they are a deferred member.

Their application will be considered as an application for early payment of deferred benefits due to ill health, where the member is still employed within NHS employment. For the application to be successful, the scheme managers are required to be satisfied that the member is permanently incapable of efficiently discharging the duties of their NHS employment due to physical or mental infirmity.

Form AW33E should still be completed and submitted because the member has remained in NHS employment. Please ensure it is clearly marked on the AW33E that the member continues in NHS employment and has opted out of the NHS Pension Scheme. Please send the member's job description when submitting the AW33E.

Members who have both active and deferred membership

If a member has both active and deferred membership following a break of five years or more, both an AW33E and AW240 must be completed.

This is because:

- Entitlement to ill health retirement benefits for each element (deferred and active in service) is not automatic.
- An in-service application for ill health retirement benefits is considered under different regulations to that pertaining to early payment of deferred benefits due to ill health.
- It is possible for a member to be awarded ill health retirement under one Section/Scheme and not the other as the eligibility requirements for the Sections/Schemes differ.
- The 1995/2008 Sections and the 2015 Scheme have a different normal pension age (NPA). Permanent incapacity is assessed by reference to the relevant NPA.
- Separate application forms are required as entitlement to ill health retirement benefits and early payment of deferred benefits due to ill health are considered under different regulations and have different assessment criteria. They are separate applications.

Members with deferred membership in the 1995 Section and active membership in the 2008 Section

Members must complete separate applications for consideration of entitlement to ill health benefits in respect of each section.

Members with membership in the 1995 Section and/or membership in the 2008 Section who have moved to the 2015 Scheme.

Members who have moved or will move to the 2015 Scheme as part of the transitional arrangements, on or after 1 April 2015, and have not had a break of more than five years only need to make one application using an AW33E.

Ill health application – assessment

The Scheme's medical advisers will consider an application for ill health retirement benefits and will reach one of the following decisions:

Claim unsuccessful:

- member does not meet the criteria for ill health retirement benefits.

Claim successful, either:

- **Accepted tier 1** - the member meets the criteria for ill health retirement of being permanently incapable of efficiently discharging the duties of that NHS employment.
- **Accepted tier 1 with the right to request one reassessment for tier 2 within three years of the award of benefits notification, or before NPA if that is sooner** - the reassessment provision is granted when the Scheme's medical adviser is satisfied that the member meets the tier 1 criteria, but that the nature of the condition makes it difficult to assess the longer-term outcome in terms of ability to permanently undertake any regular employment of like duration. The reassessment provision may also be granted where the member's future capacity for employment of like duration is contingent on a favourable response to treatment.
- **Accepted tier 2** - the member meets the criteria for ill health of being permanently incapable of regular employment of like duration.

The decision

The decision to accept or reject a member's ill health application is based on clinical consideration by the Scheme's medical advisers who are professionally qualified, experienced and specially trained clinical medical professionals.

The role of the Scheme's medical advisers is to carry out an objective and independent professional assessment of all the available medical evidence. The medical advisers can also commission further medical evidence if they consider it relevant and helpful to their clinical consideration, for example an approach to the member's general practitioner or their treating specialist.

For members in active pensionable employment the Scheme's medical advisers will inform the member, employer and NHS Pensions of their decision.

For accepted ill health retirement applications the employer should issue the retirement benefits claim form AW8 as soon as possible after receiving the acceptance letter from our medical advisers.

Timescales

The amount of time it can take from application to decision will depend on the individual assessment of a case. If further medical evidence is required, this can delay the decision.

Where a member does not agree with a decision

For rejected ill health applications, if a member does not agree with the decision, they can ask for their application to be reviewed again under the Internal Dispute Resolution (IDR) procedures. To do this they must complete form DRP1 which can be found on our website at: www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members

Where a member is given a right to request reassessment

The Scheme's medical advisers may decide that a member is eligible for tier 1 ill health benefits with the right to request one reassessment for tier 2 within three years of the award of benefits notification, or before NPA if that is sooner.

Such a reassessment, if requested by the member before the three-year period has lapsed, or before NPA if that is sooner, would consider the condition(s) upon which the original decision was made. The member is required to provide fresh supporting medical evidence to demonstrate that they are permanently incapable of regular employment of like duration. Subsequent new conditions, which have occurred after date of termination will not be taken into account.

Note: The three-year period during which a reassessment may be sought is restricted to:

- A reassessment decision being made prior to NPA, where this occurs within the three-year period, and
- within 12 months of any NHS re-employment, if re-employment occurs within the three-year period.

Costs to the employer

There is no cost incurred by the employer during the ill health retirement application process. Active members of the NHS Pension Scheme usually have access to occupational health services who provide their services for free.

If occupational health services are not available, or an alternative source is selected to provide the information, they may charge a fee. It will be the member's responsibility to pay any fee.

Requesting an ill health retirement estimate

You should use Pensions Online (POL) to provide an estimate of ill health retirement benefits wherever possible.

If the member has already submitted an application form AW33E to be considered for ill health retirement, we can provide an estimate free of charge even if the member has a Total Rewards Statement (TRS) statement or has had a free of charge estimate in the last 12 months.

If the member has not already submitted an application form AW33E to be considered for ill health retirement, or we have previously provided an ill health estimate in the last 12 months, there will be a charge for the estimate.

In cases of terminal illness, there will not be a charge for the estimate even if we have not yet received an application for ill health retirement benefits.

Information about charges is included in the estimate request forms (AW295) available on our website at: www.nhsbsa.nhs.uk/employer-hub/employer-forms.

Members with less than 12 months to live - ill health application fast-tracking process.

In instances where the member has less than 12 months to live and their application for ill health retirement benefits needs to be dealt with urgently, you should email a scanned copy of the consideration of entitlement to ill health retirement benefits application AW33E as instructed on the form.

The application will be fast tracked immediately and referred to the Scheme's medical advisers for an urgent assessment.

Ill health retirement accepted – Completing the AW8 retirement benefits claim form

Before completing the AW8 claim form check that the Scheme's medical advisers have confirmed acceptance of the ill health retirement application.

You must send form AW8 to the employee for completion of parts 7 to 15, as soon as possible after the ill health retirement application has been accepted by our medical advisers.

The AW8 form can be found on our website at: www.nhsbsa.nhs.uk/employer-hub/technical-guidance/retirement.

Please do not use old versions of the AW8 as these may not contain all the information that we need in order to authorise payment of benefits.

Completing the AW8

When completing Parts 1 to 3 of form AW8 the following points should be kept in mind:

- The member's pension record must be terminated on the grounds of ill health (exit code 04) on the SD55 and submitted on POL before submitting the AW8 application form.
- Any untaken annual leave at the actual date of retirement will extend the last day of membership. Remember to deduct contributions for the leave days and ensure the date of retirement on form AW8 and box 39 of form SD55 on POL are the same.

Part 2 - Pensionable pay details

1995 Section members

Because we do not have access to payroll records, we rely entirely on you, the employer, to provide accurate pensionable pay information when completing the application form AW8.

You must always complete the pay details at Parts 2 and 3, unless the member is a practitioner. You can leave Parts 2 and 3 blank for practitioners.

2.1 Enter the name of the employing authority, GP practice, direction body or out of hours provider responsible for paying the member's salary.

2.2 Tick the 'Yes' or 'No' box as appropriate.

2.3 For whole time and part-time members

(A) must be completed in all cases. Give the dates and total pensionable pay (TPP) in each of the last three years of contributing membership.

The last day of pensionable membership shown here must be the same as the date shown in box 39 of the final SD55 on POL.

If the member is whole time and the last year is the highest, only complete the top line. If the member is part time, has a mixture of part time and whole time service or has suffered a reduction in pay, all three years must be completed.

Last Year – this should be the last 365 paid days of pensionable employment, counting back from the last day of membership e.g. If last day of pensionable employment is 31 October 2011, the last year of pensionable pay would be from 1 November 2010 to 31 October 2011.

Middle Year – this should be the 365 paid days of pensionable employment immediately preceding the last year.

Earliest Year – this should be the 365 paid days of pensionable employment immediately preceding the middle year.

(B) Enter the amount of deemed pensionable pay that has been included in (A) above in highest year only.

(C) Enter the amount of Domiciliary Visit Fees included in (A) above.

2.4 Enter the member's annual rate of pay as at the last day of employment or the last day of pensionable membership if earlier.

Part 3 Additional information for part time members, including part time specialists

3.1 These boxes must be completed for all members who have worked part time in their last three years up to retirement. Give the notional whole time pensionable pay for each of the last 3 years used in Part 2. (A) above. This figure should be the pensionable pay that the member would have been paid if they had worked full time in each of pensionable pay periods used.

3.2 Part A Only needs to be completed for any member with part time specialist membership since 15 December 1966. B Only needs to be completed if A applies.

Part 4 Verification of dates and details given by the member in Part 7

Enter Y (yes) or N (no) to confirm if the dates and details given by the member in Part 7 have been verified by sight of the original or certified copy certificates.

Part 5

You only need to complete for compensation retirement cases only. (03 exit codes only).

Part 6 Certification

Must be completed in all cases by an officer delegated to authorise pension details on behalf of the employer (for example, a finance officer, nominated pension officer).

6.1 Ill health retirement: Check that you have received confirmation of acceptance for ill health retirement from the Scheme's medical advisers. Do not send/submit the AW8 unless you hold such confirmation.

6.1a Commuted ill health: Form AW341 must be fully completed by the member if life expectancy is less than 12 months, and the member wishes to take commuted ill health benefits.

Once the above information has been completed you should check that the member has fully completed parts 7 - 15 of the AW8.

The authorised signatory should sign and stamp the application form. The information should be submitted via Pensions Online and the paper form filed by the employer.

Note- We may ask for a copy of the paper AW8 in certain circumstances.

Submitting the AW8

Where submission via POL is not appropriate send the form AW8 to us with any other documents. In all cases the application should be submitted /sent to us at least three months (but no more than 105 days) before the intended retirement date.

Please take care when entering information into POL, mistyping information such as bank account details can be costly and time consuming to rectify. If unsure about any of the information provided on the AW8 please check with the member in the first instance.

Finding more information

A guide for employers to the electronic submission of form AW8 via POL is available on the POL webpage.

Completing form AW8 for members who have been accepted for ill health retirement and left NHS employment.

Form AW8 must be completed for members who have left employment before their NPA and within 12 months of the date of leaving are claiming their pension benefits on the grounds of ill health.

Completing AW311 supplementary form – step back pensionable pay (no pay sick followed by outstanding annual leave at last day of membership)

The supplementary form AW311 should be completed where there is a period of unpaid leave. This is because, the period over which pay for benefit purposes would normally be calculated will need to be extended backwards into the previous period, for a period equal to the unpaid sick leave.

This will have the effect of making up the TPP period to 365 paid days. This is commonly referred to as 'stepping back.'

For example, if the last day of pensionable employment is 31 October 2011 and the member had three unpaid sick days within the last year, their pensionable pay would be from 28 October 2010 to 31 October 2011. The number of days unpaid leave should be shown in the disallowed days column for the relevant year.

The supplementary form AW311 can be found on our website at:
www.nhsbsa.nhs.uk/employer-hub/technical-guidance/retirement

The completed supplementary form AW311 must be returned to nhsbsa.polia3@nhs.net following submission of the AW8.

Ill health retirement application - sick leave and career breaks

Members on a leave of absence (career break/authorised leave) other than illness, maternity leave, adoption leave, parental leave or shared parental leave can elect to remain pensionable for a period of six months. This must be the first six months of their absence. The employer and member will pay the contributions.

If the member chooses to extend their leave, the option to remain pensionable can be extended for a further 18 months during which time the member will be responsible for paying both the employer and employee contributions.

The option to remain pensionable whilst on a career break is therefore limited to a continuous period of two years in total.

It is important to note that if the member does not elect to pay pension contributions during a career break, their last day of scheme membership is the day before the career break commences.

If the member has been on a career break immediately before termination of employment and did not elect to pay pension contributions, they cannot be considered for in service ill health retirement benefits. This is because they were not in active pensionable employment. As such, we would only be able to consider an application for early payment of deferred benefits due to ill health.

Therefore, any absence due to sickness cannot be substituted for a career break and the members contract of employment must always be terminated on the grounds of ill health when submitting any ill health retirement application.

Where a member dies after being accepted for ill health retirement

The benefits that would be payable in this scenario will depend on whether the member has died before or after their last day of service, and also whether the AW8 application form for the ill health retirement has been completed.

Member dies prior to their retirement date

Ill health retirement benefits cannot be paid where the member has died prior to their retirement date. In these cases, the member has died in service and death in service benefits would be payable including any initial/continuing survivors pension, if applicable.

Member dies after their retirement date and benefits have not been paid

Ill health retirement benefits will be paid if:

- the member's application for ill health retirement has been successful; and
- an AW8 application form has been signed by the member; the member has died after their last day of service (including any outstanding annual leave).

For these cases the AW8 form must be posted to us with a copy of the member's death certificate (an original or certified copy should have been seen by the employer). Ill health retirement benefits will be paid posthumously to the estate of the member. We will pay any retirement lump sum and arrears of pension.

As the late member died after retirement, death benefits will be paid accordingly, that is, death of a pensioner member.

An ill health pension will not be paid if the member has not signed the AW8 application for retirement and subsequently died after their last day of service (including any outstanding annual leave).

Death benefits will be calculated on the basis that the member has died within 12 months of leaving the Scheme.

Serious ill-health - commuted ill health retirement benefits

Where a member's life expectancy is less than one year, they can apply at retirement to exchange all their ill health retirement benefits for a one off, usually tax free, lump sum payment. This is done by submitting an AW341.

To make this exchange, they must have some of their HM Revenue & Customs (HMRC) personal lifetime allowance (LTA) remaining.

The one-off lump sum payment is calculated using the following formula, which is in accordance with HMRC rules:

- Pension up to the level that provides the maximum permitted lump sum will be converted at the rate of £12 lump sum for every £1 of pension given up.
- The remaining pension will be converted to a lump sum at the rate of £5 lump sum for every £1 of pension.
- Any basic retirement lump sum payable from either the 1995 Section or the 2008 Section will be paid in addition to the pension lump sum.

Pension debit

A pension debit as a result of pensions on divorce must be taken into account before an election to give up pension for lump sum takes place (either via cash commutation or serious ill health lump sum).

Note - An application to exchange retirement benefits for a one-off lump sum must be made before the pension is paid and cannot be changed once the lump sum payment has been made.

Examples of commuted ill health

Example of a one-off lump sum payment in the 1995 Section

Basic projected benefits:

- Pension: £1,200
- Lump sum retirement allowance: £3,600

For the member to receive the most beneficial one-off lump sum payment, the basic pension is firstly commuted by giving up some of the annual pension to get the maximum lump sum allowed, using the conversion formula of £1 pension to £12 of lump sum (subject to HMRC limit):

- Pension (reduced): £965
- Lump sum retirement allowance (maximum): £6,420

Therefore the ill health one-off payment is calculated as follows:

- Pension (reduced) multiplied by 5: £965 x5 = £4,825
- Plus the maximum lump sum retirement allowance: £6420
- This would result in a one-off payment of £11,245

Note: if the pension is not commuted to give the maximum lump sum before the one-off payment is calculated, then the member would receive 5x the basic pension (5 x £1,200) which amounts to £6,00 plus the basic lump sum of £3,600, totalling £9,600.

Example of a one-off lump sum payment in the 2008 Section

Basic projected benefits:

- Pension: £1,900

For the member to receive the most beneficial one-off lump sum payment, the basic pension is firstly commuted by giving up some of the annual pension to get the maximum lump sum allowed, using the conversion formula of £1 pension to £12 of lump sum (subject to HMRC limit):

- Pension (reduced): £1,221.43
- Lump sum retirement allowance (maximum): £8,142.84

Therefore the ill health one-off payment is calculated as follows:

- Pension (reduced) multiplied by 5: £1,221.43 x5 = £6,107.15
- Plus the maximum lump sum retirement allowance: £8,142.84
- This would result in a one-off payment of £14,249.99

Example of a one-off lump sum payment in the 2015 Scheme

The same formula as used for a 2008 Section member would be used for members of the 2015 Scheme.

For those members who move to the 2015 Scheme from either the 1995 or 2008 Section on 1 April 2015 or following the end of their transition period, the one-off payment would be made up of two parts. One for their 1995 or 2008 Section pension benefits (or both in some instances) and the second in respect of their 2015 Scheme membership. The amounts will be calculated in accordance with the relevant Section or Scheme as described above.

How to apply for commutation

Active members under NPA

A member who is under their NPA at retirement and has at least two years' membership must complete form AW341 if they wish to exchange their ill health retirement benefits for a one-off lump sum payment. Once the member receives notification that their AW33E application for ill health benefits has been accepted the member can send the AW341 to us along with their AW8.

Deferred members under NPA

Members with deferred membership, should apply to exchange retirement benefits for a one-off lump sum by completing form AW341. This should be submitted with the AW8P once the AW240 application for early payment of deferred benefits due to ill health has been accepted.

For deferred members who have a last day of scheme membership on or after 1 April 2008 the one-off lump sum will be converted as described above.

For deferred members with a last day of scheme membership before 1 April 2008 the one-off lump sum will be equal to five times the annual pension plus the lump sum.

The benefits will not be enhanced under the ill health retirement arrangements.

Note: Deferred members with a last day of scheme membership before 6 March 1995 may not exchange their retirement benefits for a one-off lump sum payment.

Active members over NPA

A member who has reached or is over their NPA is ineligible to apply for ill health retirement benefits. However, they do have the option to exchange their retirement benefits for a one-off lump sum payment where life expectancy is less than 12 months.

If a member wishes to exchange their retirement benefits for a one-off lump sum payment, they must arrange for completion of form AW341A and send it to us with form AW8 (showing the reason for retirement as commuted ill health). The benefits will not be enhanced under the ill health retirement arrangements.

Members with deferred benefits in the 1995 or 2008 Sections who are members of the 2015 Scheme

A member who has successful applications for ill health retirement benefits in respect of active 2015 Scheme membership and also for early payment of deferred benefits in respect of 1995/2008 Section membership, should attach an AW341 or AW341A to each AW8 or AW8P claim when submitting the claim for benefits.

If they are a scheme member who moves or has moved to the 2015 Scheme as part of the transitional arrangements, on or after 1 April 2015 and have not had a break of more than five years they would only need to complete an AW341.

HMRC severe ill health condition test

The information below is only relevant if:

- The member is accepted for tier 2 ill health retirement benefits; and
- The growth in their NHS pension benefits exceed the annual allowance.

Meeting HMRC's severe ill health condition will exempt the member from an annual allowance charge in the tax year the condition is met. The member may still have an annual allowance charge in relation to another tax year if the annual allowance is exceeded, and they do not have enough unused annual allowance to carry forward.

The conditions for having a severe ill health condition are as follows:

- evidence is received from a registered medical practitioner that confirms that the member is suffering from ill health which makes them unlikely to be able to undertake any gainful work in any capacity other than to an insignificant extent before reaching State Pension age; or
- an application to commute ill health retirement benefits has been accepted and the member meets HMRC's requirements for a serious ill health lump sum (this is normally where the Scheme's medical advisers confirm they have less than 12 months to live). If the member is accepted for tier 2 benefits and they have given their permission, we will normally check:
 - if the growth in their NHS benefits exceeds the annual allowance in a tax year; and
 - whether the member meets HMRC's conditions for severe ill health in that tax year.

Re-employment – abatement

Members under normal pension age who are in receipt of an ill health pension who return to NHS employment are subject to abatement even if they do not re-join the Scheme.

Abatement is a potential reduction of a member's pension for a period of time whilst they are re-employed in the NHS.

The proportion of pension assessed for abatement is the unearned pension.

Members who return to work must inform their NHS employer and us if they are in receipt of an ill health pension.

Where a person is in receipt of the NHS ill health pension benefits and returns to the NHS trading as a limited company, they are still subject to abatement.

It will be necessary to make an adjustment to the relevant earnings figure for members who move to the 2015 Scheme from the 1995/2008 Section and subsequently receive ill health pension benefits. The adjustment will be required once the member reaches their normal pension age in either the 1995/2008 Section. This is because the pension is no longer subject to abatement once the member reaches their normal retirement age. The 2015 Scheme pension will however continue to be subject to abatement until the member's normal pension age, which is state pension age or age 65 if this is later.

Returning to work after ill health retirement

Tier 1 pension

If a member is in receipt of a tier 1 ill health pension and returns to work in the NHS before NPA and their earnings exceed a certain limit, some of their pension will be subject to abatement. Please see Abatement Basic Overview Guide available on the Employers Hub and for more technical guidance the Retire & Return Guide which can be found on our website at www.nhsbsa.nhs.uk/employer-hub/technical-guidance/joiners

For abatement purposes, employment or re-employment within the NHS means any work done for an employer or commissioning body that has access to the NHS Pension Scheme or works on contracts funded by the NHS.

There are no restrictions if the member returns to non-NHS employment.

Tier 2 pension

The restrictions in respect of returning to work whilst retaining a tier 2 ill health pension are based on:

- whether the member returns to NHS or non-NHS employment
- the amount of money earned.

In addition to the abatement rules there are two restrictions for those who return to work in the NHS and one restriction for those who return to work outside of the NHS.

Restriction 1 - The 12 month restriction (only applicable to those returning to work in the NHS).

Members who have been awarded a tier 2 pension cannot work for more than 12 months in the NHS and keep their tier 2 ill health pension. The 12-month period starts on the day the member first returns to work in the NHS after retirement.

Any work conducted in the NHS after the 12-month period has ended will result in the tier 2 ill health pension being substituted to a tier 1 ill health pension. A tier 2 ill health pension will not be reinstated under any circumstances if this restriction is broken.

Restriction 2 – The earnings restriction (applicable to both NHS and non-NHS work).

The member's gross earnings in any given tax year must not exceed the National Insurance Lower Earnings Limit (LEL), set by HMRC. Gross earnings are those paid before any deductions (such as income tax and National Insurance contributions) are taken out.

If the member earns more than the LEL the tier 2 ill health pension will be substituted with a tier 1 ill health pension. If this restriction is broken, the tier 2 ill health pension will be substituted on the first pension payment date after the day the member's earnings exceeded the annual LEL.

It is possible to regain the tier 2 ill health pension if the member exceeds the LEL. However, if restriction 1 is broken the tier 2 pension cannot be reinstated.

In order to regain the tier 2 ill health pension, the member must meet all three of the following criteria. These must be met within 12 months starting from the day in which the LEL is first exceeded:

- Be under normal pension age
- Stop working altogether
- Submit new supporting medical evidence to us which shows that they satisfy the tier 2 condition

The medical evidence will be assessed by the Scheme's medical advisers who will determine if the member's condition still satisfies the criteria for a tier 2 ill health pension. If so, the tier 2 ill health pension will be reinstated from the day after the date that the further employment is terminated. The further employment must also be terminated before the end of the protection period, that is one year beginning with the day on which the annual earnings from further employment first exceed the LEL.

Members need to contact us immediately about any earnings or work they may undertake to avoid the possibility of their pension being overpaid. Any overpayment will have to be repaid. Any delay in notifying us may limit or eliminate the time available to regain the tier 2 ill health pension and the pension could be permanently reduced to a tier 1 ill health pension.

For information on eligibility to re-join the Scheme following ill health retirement, please refer to the information available on the Members Hub area of our website and for more technical guidance the Retire & Return Guide which can be found on our website at: www.nhsbsa.nhs.uk/employer-hub/technical-guidance/joiners

Commutated pension - If a member opted to commute their pension to a single lump sum under serious ill health retirement and they return to NHS employment, there will be no action taken.

In the following circumstances members in receipt of an ill health pension may re-join the 2015 Scheme if they are:

- In receipt of a tier 1 ill health pension - Can re-join the 2015 Scheme in respect of any further NHS employment, but whilst the tier 1 pension may remain in payment it will be subject to the abatement rules.
- In receipt of a tier 2 ill health pension - Can re-join the 2015 Scheme after the first anniversary of re-entering NHS employment. This is also the date at which the tier 2 pension will be reduced to a tier 1 pension. The tier 1 pension may remain in payment but will be subject to the abatement rules.

A member who has been paid a serious ill health pension cannot re-join the 2015 Scheme.

Tier 2 annual review

The onus is on the member to notify us in writing if they have worked or if there are any changes to their circumstances.

Additional pension purchase

Active members of the Scheme may elect to pay additional contributions to purchase additional pension. Members may purchase additional pension either by a single lump sum or instalments up to their normal pension age.

Where a member signs an application to be considered for entitlement to ill health retirement benefits (AW33E):

- Before the end of the period of 12 months beginning with the date on which the application to buy additional pension was signed, the agreement will be cancelled and all additional pension contributions are returned. This applies to purchase by instalments or by lump sum.
- 12 months or more after the date on which the application to buy additional pension was signed they will be credited with the full value of the additional pension contract and all future additional contributions will be waived. However, where the member has ceased active membership and the successful claim resulted in deferred benefits brought into payment, only a proportionate credit will be awarded calculated up to the point the additional contributions ceased.

Added years purchase of additional years and days

When completing form AW33E, members who have been paying additional contributions for 12 months or more will be credited with the full amount of membership they would have purchased had they continued making contributions until their NPA.

Members working part time, the additional membership purchased will be based on the number of pensionable hours they actually worked.

Members who have been making additional payments for less than 12 months, the added years contributions will be returned.

This applies to both tier 1 and tier 2 ill health retirements, as well as members taking their benefits as a one off lump sum due to serious ill health.

Where the additional contract would be paid to age 65 and the member retires due to ill health on or after age 60, only a proportionate credit with a reduction for early payment will be awarded.

Early retirement reduction buy out (ERRBO)

Where a member has elected to buy an ERRBO agreement, and ill health retirement is accepted, the contract lapses due to the ill health pension benefits being paid unreduced. In these circumstances the additional contributions are not refunded to the member.