

# NHS Pensions

## Returning to work after ill health retirement

### Rejoining the NHS Pension Scheme

The information in this document relates to members who have retired from active membership with an ill health pension. It does not apply to members who have accessed their deferred benefits early due to ill health.

The rules for rejoining the Scheme are different depending on the date you retired, the type of ill health pension you are receiving and your age at the date of returning to employment. Read the following information carefully.

| Rejoining the NHS Pension Scheme from 1 April 2023 |   |
|--|---|
| Type of ill health pension                         | Eligibility   |
| Tier 1 ill health pension                          | You can rejoin the 2015 Scheme straight away  |
| Tier 2 ill health pension                          | You can rejoin the 2015 Scheme after a period of one year beginning with the first day you return to work |

You will not be eligible to join the 2015 Scheme if you are age 75 or over.

Eligibility to join or rejoin the 2015 Scheme depends on certain criteria. Read the Rejoining the Scheme information on our website.

**You will not be eligible to rejoin either Scheme if you have taken your benefits as a serious ill health lump sum.**

### Abatement

If you return to NHS employment or employment that may have provided access to the NHS Pension Scheme before your normal pension age and your earnings are above a certain level, some of your ill health pension may be reduced. We call this abatement.

Abatement rules end once you have reached your normal pension age of the Section or Scheme from which you claimed your pension benefits.

Abatement will apply if your earnings from re-employment plus the unearned portion of your ill health pension is higher than your earnings before retirement.

Abatement is applied up to a maximum of the value of the unearned portion of your pre-commuted pension.

In the case of Tier 1 benefits the unearned portion of the ill health pension is:

- the difference between the amount of pre-commutation pension in payment and the amount of pre-commutation pension that would have been payable after actuarial reduction for early retirement, prior to your normal pension age.

In the case of Tier 2 benefits, the unearned portion of the ill health pension is:

- the extra pension arising from the membership enhancement you have received; plus
- the difference between the amount of pre-commutation pension in payment for actual membership and the amount of pre-commutation pension that would have been payable for that membership after actuarial reduction for early retirement, prior to your normal pension age.

Abatement no longer applies when you reach your normal pension age or your earnings fall below the required level, whichever is the earlier.

## Returning to work with a Tier 2 pension

If you want to retain your Tier 2 ill health pension, there are restrictions based on the kind of work you do and the amount of money you earn. These restrictions differ primarily on whether you return to work in the NHS or not.

There are two restrictions for those who return to work in the NHS and one for those outside NHS work.

You should also be aware that under the rules governing the continued receipt of a tier 2 ill health pension you will be subject to an annual review.

### How much time you can spend working in the NHS

#### **Only applies to those working in the NHS**

There is a restriction where you cannot work for more than 12 months in the NHS and keep your tier 2 ill health pension. The start of the 12 month period in which you can do work in the NHS starts on the day you first restart work in the NHS after your retirement.

If you do any work in the NHS after this 12 month period has ended, your tier 2 ill health pension will be substituted with a tier 1 ill health pension. You will not be able to regain your tier 2 ill health pension under any circumstances if you break this restriction.

For example, if you decided to restart working in the NHS on 9 August 2012, then you could only do work in the NHS from 9 August 2012 to 8 August 2013. Any work done in the NHS after 8 August 2013 would result in your tier 2 ill health pension being substituted with a tier 1 ill health pension. You would not be able to get your tier 2 ill health pension back if this were to happen.

If you break this restriction, your tier 2 ill health pension will be substituted on the first pension payment date after the first day spent working in the NHS after the 12 month period ended.

**If you decide to restart work in the NHS, you must tell NHS Pensions immediately of the date you started work.**

Please also note that if you return to work in the NHS after retiring with a tier 2 ill health pension, your pension may also be subject to abatement.

## Restricting your earnings while working

### **Applies to both NHS and non NHS Work**

There is a restriction where your gross earnings in any given tax year must not exceed the lower earnings limit (LEL) for primary class 1 national insurance contributions for that tax year. (Your gross earnings are what you are paid before any deductions (such as income tax and national insurance contributions) are taken out).

The LEL is set by HM Revenue & Customs and the value for any given tax year can be found in the following location on the HM Revenue & Customs website:

<http://www.hmrc.gov.uk/rates/nic.htm>.

The LEL amounts are published as weekly amounts. The annual amount is calculated by multiplying the weekly amount by 52. For example, the weekly amount of the LEL for tax year 2012-13 is £107. Therefore, the annual amount of the LEL for that tax year is £5,564 (£107 × 52 weeks).

If, in the course of working, your earnings exceed the annual LEL in any given tax year, your tier 2 ill health pension will be substituted with a tier 1 ill health pension. However, you may have an opportunity to regain your tier 2 ill health pension.

If you break this restriction, your tier 2 ill health pension will be substituted on the first pension payment date after the day your earnings exceeded the annual LEL.

The day your earnings exceeded the annual LEL is the date you received the pay that caused your earnings to exceed the annual LEL.

For example, imagine that you restart work in tax year 2012-13 and earn £1,200 a month, gross. After five months your gross earnings will be £6,000. These earnings are in excess of the £5,564 annual LEL for tax year 2012-13. At the end of the fourth month your gross earnings will have amounted to £4,800, which is under the annual LEL. Therefore, the date you were paid your salary for the fifth month's work is the day your earnings exceeded the annual LEL.

**If you decide to restart work, you must keep your payslips and tell NHS Pensions immediately when your earnings are about to exceed the annual LEL.**

NHS Pensions will ask you to provide the payslip that took your earnings over the annual LEL, in order to determine the day your earnings exceeded the annual LEL.

You may be able to regain your tier 2 ill health pension after exceeding the LEL.

You may have the opportunity to regain your tier 2 ill health pension if you exceed the LEL (NHS workers cannot regain if they have broken or will break Restriction 1).

You must meet all three conditions to have the opportunity to regain your tier 2 ill health pension. You must:

- be under pension age
- stop working altogether
- submit new medical evidence for your condition to NHS Pensions now. The medical evidence must be submitted before the submission deadline which is 12 months after the day you first restarted work after your retirement.

**All three of these conditions must be satisfied for you to have the opportunity to regain your tier 2 ill health pension.**

If you are under normal pension age\*, you have stopped working and your medical evidence is submitted in time, your evidence will be assessed by NHS Pensions' medical advisors. If the medical advisors determine that your condition still satisfies the criteria necessary for a tier 2 ill health pension, your tier 2 ill health pension will be reinstated from the date the medical advisor makes their determination.

**\* Your normal pension age is 60 years if you retired from the 1995 Section of the NHS Pensions Scheme. Your normal pension age is 65 years if you retired from the 2008 Section of the NHS Pension Scheme. Your normal pension age is the same as your State Pension Age (or age 65 if that is later) if you retired from the 2015 Scheme.**

**\*\* Eligibility**

**Eligibility to rejoin either the 2008 Section or the 2015 Scheme depends on certain criteria. Read the Rejoining the Scheme information on our website to determine what Scheme you will go into.**

If you start working again after your tier 2 pension has been reinstated and your earnings exceed the annual LEL once again, your tier 2 ill health pension will be substituted with a tier 1 ill health pension as described above, but you will not be allowed a second opportunity to regain your tier 2 ill health pension.

## Annual review of Tier 2 ill health pensioners

After the end of each tax year, NHS Pensions will review the earnings and employments of all pensioners in receipt of tier 2 ill health pensions. This will include those pensioners who have been awarded tier 2 ill health pensions having originally been awarded a tier 1 ill health pension with a right of review.

As the review will look back over the previous tax year, you are advised not to wait for this review before telling NHS Pensions about any earnings or work you may have done. Waiting for a review before telling NHS Pensions about any work you have done may result in an overpayment of benefit that you must repay. Furthermore, waiting for the review may limit – or, at worst, eliminate – the time available to regain your tier 2 ill health pension and you may be left permanently with a tier 1 ill health pension.