

III Health Retirement Factsheet – Returning to work with a Tier 2 Pension

This factsheet sets the restrictions for those members who have retired on a tier-2 ill health pension (meaning that they have satisfied the medical advisers that they are permanently incapable of engaging in any regular employment because of the illness or injury) and now feel well enough to return to work.

If you want to retain your Tier 2 ill health pensions 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 HSC or not. There are two restrictions for those who return to work in the HSC (see Section 1 and 2 respectively) and one for those outside HSC work (see Section 2 only).

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. The details of this are set out in Section 3.

Section 1 - How much time you can spend working in the HSC

Only applies to those working in the HSC

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

If you do any work in the HSC 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 HSC on 09 August 2010, then you could only do work in the HSC from 09 August 2010 to 08 August 2011. Any work done in the HSC after 08 August 2011 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 HSC after the 12-month period ended.

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

Please also note that if you return to work in the HSC after retiring with a tier-2 ill-health pension, your pension may also be subject to abatement (Refer to Working After retirement Factsheet for more information about this).

Section 2 - Restricting your earnings while working

Applies to both HSC and Non HSC 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>.

Please note that 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 2009-10 is £95. Therefore, the annual amount of the LEL for that tax year is £4,940 (£95 x 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 2009-10 and earn £1,000 a month, gross. After five months your gross earnings will be £5,000. These earnings are in excess of the £4,940 annual LEL for tax year 2009-10. At the end of the fourth month your gross earnings will have amounted to £4,000, 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 HSC Pensions immediately when your earnings are about to exceed the annual LEL.

HSC 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.

Regaining your tier-2 ill-health pension after exceeding the LEL

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

- To do this you must first be under normal pension age*.
- Second, you must stop working altogether.
- Third, you must submit to HSC Pensions new medical evidence for your condition 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 HSC Pensions' medical advisors. If the medical advisors determine that your condition still satisfies the criteria necessary for a tier-2 ill-pension, your tier-2 ill-health pension will be reinstated from the date the medical advisor makes their determination.

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.

Section 3 - Annual Review of Tier-2 Ill-Health Pensioners

After the end of each tax year, HSC 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 HSC Pensions about any earnings or work you may have done. Waiting for a review before telling HSC 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.

*Your normal pension age is 60 years if you retired from the 1995 Section of the HSC Pensions Scheme. Your normal pension age is 65 years if you retired from the 2008 Section of the HSC Pension Scheme.

