
STATUTORY RULES OF NORTHERN IRELAND

1995 No. 293

**The Social Security (Adjudication)
Regulations (Northern Ireland) 1995**

PART III

ADJUDICATING AUTHORITIES

SECTION E —

MEDICAL ADJUDICATION

Construction of Section E

34. In this Section—

“adjudicating medical authority” means, as the case may be, an adjudicating medical practitioner or a medical board;

“medical board” means two or more adjudicating medical practitioners nominated by the Department to act jointly in the consideration of a case.

Appointment of adjudicating medical practitioners

35. Adjudicating medical practitioners shall be appointed by the Department to act for such area or areas as may be specified in the instrument of appointment.

Determination of medical questions

(a) (i) Section 45(1) of the Administration Act shall have effect as if for the words “an adjudicating medical practitioner” in the second place where they occur there were substituted “a medical board”,

(ii) section 45(2) of the Administration Act shall have effect as if for “such a practitioner if he” there were substituted “a medical board if it”;

(b) any case which, in the opinion of the Department, should be determined by more than one adjudicating medical practitioner, shall be referred to and determined by a medical board.

(2) Any question which falls to be determined by an adjudicating medical authority other than those within paragraph (1) shall be referred to and determined by an adjudicating medical practitioner.

(3) Where a case has been referred to an adjudicating medical practitioner for determination the Department may, at any time before the determination is made, revoke that reference and refer the case to a medical board.

(4) Where a case has been referred to a medical board consisting of two members and they are unable to agree, the reference to that board shall be revoked and the case shall be referred to a board

consisting of three members and if they are not unanimous the decision of the majority shall be the decision of the board.

(5) The Department shall appoint one of the members of any medical board to act as chairman.

(6) A medical board shall not determine any question unless all the members thereof are present at the consideration of that question, and if any member of the board is absent the reference to that board shall be revoked and the case shall be referred to another such board.

(7) Reasonable notice (being not less than 10 days beginning with the day on which the notice is given and ending on the day before the sitting is to take place) of the time and place at which an adjudicating medical authority will sit for the consideration of any case shall be given to the claimant and if such notice is not given or if, after such notice has been given, the claimant fails to appear at the sitting of the authority, the authority may proceed to determine the questions referred to it only with the claimant's consent.

(8) For the purposes of these Regulations a sitting of an adjudicating medical authority is not an oral hearing, and the only persons entitled to be present and be heard during the consideration of any question by such an authority are the claimant and any other person whom the authority may, with the consent of the claimant, allow to be present as being a person who, in its opinion, is likely to assist it in the determination of that question.

Decisions of adjudicating medical authorities

37.—(1) An adjudicating medical authority shall in each case record its decision in writing in such form as may from time to time be approved by the Department and shall include in such record (which shall be signed by all members of the authority)—

- (a) a statement of its findings on all questions of fact material to the decision; and
- (b) in a case in which the decision of a medical board consisting of three members was not unanimous, a statement that one of the members dissented and the reasons given by him for dissenting.

(2) As soon as may be practicable, the claimant shall be sent written notice of the decision of the adjudicating medical authority, and such notice shall be in such form as may from time to time be approved by the Department and shall contain a summary of the findings of the authority, including, if the decision is not unanimous, a statement that one of the members dissented and the reasons given by him for dissenting.

(3) A person to whom written notice of the decision of an adjudicating medical authority is sent in accordance with paragraph (2) shall be informed in writing of the conditions governing an appeal to a medical appeal tribunal.

Medical appeal tribunals

38.—(1) A medical appeal tribunal shall hold an oral hearing of any appeal or reference made to it.

(2) Where any member of a medical appeal tribunal is not present at the consideration of a case, the tribunal shall not proceed to determine that case but shall adjourn it for consideration by another tribunal.

(3) Where a medical appeal tribunal is unable to reach a unanimous decision on any case, the decision of the majority of its members shall be the decision of the tribunal.

(4) A medical appeal tribunal shall in each case record its decision in writing and shall include in such record, which shall be signed by all members of the tribunal, a statement of the reasons for the decision, including findings on all questions of fact material to the decision.

(5) As soon as may be practicable after a case has been decided by a medical appeal tribunal, a copy of the record of the decision made in accordance with this regulation shall be sent to every party to the proceedings who shall also be informed of the conditions governing appeals to a Commissioner.

Application for leave to appeal to a Commissioner from a medical appeal tribunal

39.—(1) Subject to paragraphs (2) to (4), an application to the chairman of a medical appeal tribunal for leave to appeal to a Commissioner from a decision of a medical appeal tribunal shall be made in accordance with regulation 3 and Schedule 2.

(2) Where an application in writing for leave to appeal is made by the Department or an adjudication officer, the clerk to the tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

(3) The decision of the chairman on an application for leave to appeal shall be recorded in writing and notice of it shall be given to every party to the proceedings.

(4) Where in any case it is impracticable, or it would be likely to cause undue delay, for an application for leave to appeal against a decision of a medical appeal tribunal to be determined by the person who was the chairman of that tribunal, that application shall be determined by any other person qualified under section 48(4) of the Administration Act to act as a chairman of medical appeal tribunals.

Disqualification from acting as an adjudicating medical authority or as a member thereof or as a member of a medical appeal tribunal

40.—(1) Subject to paragraphs (2) and (3), a person shall not act as an adjudicating medical authority or as a member thereof or as a member of a medical appeal tribunal in any case where he—

- (a) is or may be directly affected by that case;
- (b) has taken any part in such a case as a medical assessor, or as a medical practitioner who has regularly attended the claimant or to whom any question has been referred for report, or as an employer or as a witness; or
- (c) in the case only of a medical appeal tribunal, has acted as an adjudicating medical authority, or as a member thereof, to whom the case was referred.

(2) A medical practitioner to whom a question has been referred under regulation 45(1) (reference of diagnosis and recrudescence questions for medical report) shall not be precluded from acting as an adjudicating medical practitioner solely by reason of his having prepared, under that regulation, a report on the case of the claimant (whether in relation to the question for determination or otherwise) if he proposes to determine the question in favour of the claimant.

(3) A medical practitioner shall not be precluded from acting as a member of a medical board for the purpose of the consideration of a case solely because he has taken part in that case as a medical practitioner to whom a question relating to any of the diseases numbered B6, C15, C17, C18 C22(b), D1, D2, D3, D7, D8, D9, D10, D11 or D12 in Part I of Schedule 1 to the Prescribed Diseases Regulations⁽¹⁾; has been referred for report.

(4) Where an adjudicating medical authority or a medical appeal tribunal is unable to determine a question by reason of the provisions of paragraph (1), the reference to that authority or tribunal shall be revoked and the case shall be referred to another such authority or tribunal.

(1) Relevant amending regulations are [S.R. 1986 No. 270](#), [S.R. 1987 No. 116](#), [S.R. 1991 No. 414](#) and [S.R. 1993 Nos. 148 and 350](#)

Application for review involving review of a decision of a medical appeal tribunal

41. Where, in the opinion of an adjudication officer, an application made under the provisions of section 45(4) of the Administration Act raises a question as to the review of a decision of a medical appeal tribunal and, by virtue of section 45(7) of that Act, such a decision may not be reviewed without the leave of a medical appeal tribunal, the adjudication officer shall submit the application to a medical appeal tribunal so that the tribunal may consider whether such leave shall be granted and shall not refer the question to an adjudicating medical authority with a view to the review of that decision unless the medical appeal tribunal grant such leave.

Procedure of a medical appeal tribunal on receipt of a Commissioner's decision

42.—(1) Subject to paragraphs (2) and (3), the provisions of these Regulations apply for the disposal by a medical appeal tribunal of a case remitted to it following an appeal to a Commissioner as if it were an original hearing of an appeal to the medical appeal tribunal.

(2) Where, on appeal from a medical appeal tribunal to him, the Commissioner has decided that the decision of the medical appeal tribunal is not erroneous in point of law, the medical appeal tribunal need not hold a hearing for the purpose of confirming its decision.

(3) Where the case is remitted to the medical appeal tribunal following an appeal to a Commissioner in which it was decided that the decision of the medical appeal tribunal was erroneous in point of law, the proceedings shall, subject to any direction of the Commissioner, be by way of a complete rehearing of the appeal by persons who were not members of the tribunal which gave the erroneous decision.