
WELSH STATUTORY INSTRUMENTS

2015 No. 622

The Firefighters' Pension Scheme (Wales) Regulations 2015

PART 12

Determinations and appeals

CHAPTER 1

Determinations and role of IQMP

Determinations by the scheme manager

161. The scheme manager must determine whether a person is entitled to an award or to retain an award.

Role of IQMP in determinations by the scheme manager

162.—(1) In making a determination as to whether a person is entitled to an award, or to retain an award, where the determination as to entitlement depends in part on the ill-health or capacity of the person who would be so entitled, the scheme manager must obtain the written opinion of the IQMP on any issue which is wholly or partly of a medical nature.

(2) The scheme manager must request an IQMP to provide an opinion on the following issues for the purpose of determining any question arising under this scheme—

- (a) whether a person is incapable of performing any duties of the role in which that person was last employed because of incapacity of mind or body;
- (b) whether the incapacity in sub-paragraph (a) above is likely to continue until normal pension age or deferred pension age, as the case may be;
- (c) whether a person has become capable of performing any duties of the role from which that person retired on grounds of ill-health;
- (d) whether a person is or has become capable of undertaking regular employment; or
- (e) any other issue wholly or partly of a medical nature.

(3) Subject to paragraph (6), the IQMP must certify under paragraph (2) that—

- (a) the IQMP has not previously advised, or given an opinion on, or otherwise been involved in, the particular case for which the opinion has been requested; and
- (b) the IQMP is not acting, and has not at any time acted, as the representative of the member, the scheme manager, or any other party in relation to the same case.

(4) An IQMP's opinion under paragraph (2) is binding on the scheme manager unless it is superseded by the IQMP's response under regulation 163(2) (review of medical opinion) or the outcome of an appeal under regulation 164 (appeals against determinations based on medical evidence).

(5) The IQMP's response under regulation 163 (review of medical opinion) or the outcome of an appeal under regulation 164 (appeals against determinations based on medical evidence), as the case may be, is binding on the scheme manager.

(6) Where, in consequence of an opinion given under paragraph (2), a member has retired on the grounds of ill-health, the IQMP who gave the opinion may, if so requested by the scheme manager for the purposes of a review under regulation 77(1) (review of ill-health award or early payment of retirement pension), give a further opinion.

(7) If—

(a) a person wilfully or negligently fails to submit to medical examination by the IQMP selected by the scheme manager; and

(b) the IQMP is unable to give an opinion on the basis of the medical evidence available, the scheme manager may make a determination on the issue on such other medical evidence as the scheme manager thinks fit, or without medical evidence.

(8) Within 14 days of making a determination under these Regulations, the scheme manager must—

(a) give written notice of it to the person concerned; and

(b) in the case of a determination on an issue wholly or partly of a medical nature, unless paragraph (7) applies, supply that person with a copy of the opinion obtained under paragraph (2).

Review of medical opinion

163.—(1) Where—

(a) new evidence on an issue wholly or partly of a medical nature is presented to the scheme manager by a member (P) in respect of whom a determination has been made under these Regulations;

(b) the scheme manager receives that evidence—

(i) where a copy of an opinion was supplied in accordance with regulation 162(8) (role of IQMP in determinations by the scheme manager), within 28 days of the receipt by P of that copy, and

(ii) in any other case, within 28 days of the receipt by P of notice of the scheme manager's determination; and

(c) the scheme manager and P agree that the IQMP must be given the opportunity of reviewing that opinion in the light of the new evidence,

the scheme manager must send a copy of the new evidence to the IQMP and invite the IQMP to reconsider that opinion.

(2) An IQMP's response to an invitation under paragraph (1) must be in writing.

(3) An IQMP's response under paragraph (2) is binding on the scheme manager unless it is superseded by the outcome of an appeal under regulation 164 (appeals against determinations based on medical evidence).

(4) As soon as reasonably practicable after receiving a response under paragraph (2), the scheme manager must reconsider its determination.

(5) Within 14 days of that reconsideration, the scheme manager must—

(a) give written notice to P that it has confirmed its determination or revised its determination (as the case may be);

- (b) if it has revised its determination, supply P with written notice of the revised determination;
and
- (c) supply P with a copy of the response under paragraph (2).