
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Diffuse Mesothelioma Payment Scheme Regulations 2014

Determination of applications

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- 16.—(1) In making a determination the scheme administrator must—
- (a) refuse to make a payment in a case where the scheme administrator determines that the applicant does not meet the conditions in sections 2 or 3 of the Act;
 - (b) decide to make a payment of an amount set out in the second column of the table in Schedule 4 to these Regulations (Amount of Scheme Payment) which corresponds with the age of the person with diffuse mesothelioma in the first column of that Schedule.
- (2) Where the scheme administrator makes a determination under paragraph (1)(b) it must—
- (i) take account of any conditions imposed under regulation 17;
 - (ii) take account of any relevant deduction; and
 - (iii) ensure that where there are two or more eligible dependants, the amount for each of them is the amount for a single eligible dependant divided by the number of eligible dependants.
- (3) In this regulation and Schedule 4, the age of the person with diffuse mesothelioma means—
- (a) their age at the date of first diagnosis; or
 - (b) where the application is made by their dependant under the circumstances mentioned in section 3(2) of the Act (where a person has been diagnosed with diffuse mesothelioma following his or her death), the date of death of the person.

Imposing conditions on the making of a payment

- 17.—(1) Where the scheme administrator decides to make a payment under the scheme the scheme administrator—
- (a) may impose one or more conditions on the making of the payment for the purpose of ensuring that the payment is used for the applicant's benefit; and
 - (b) if it considers that it would be in the interests of the applicant to do so, may impose such conditions as the scheme administrator considers are appropriate for that purpose.
- (2) Conditions which may be imposed include—
- (a) requiring that a trust be established on such terms or in accordance with such arrangements as the scheme administrator may direct for the purpose of administering the amount to be paid to it under the scheme;
 - (b) before any payment is made, requiring an application to be made for the appointment of a deputy, guardian or controller.
- (3) The conditions imposed must not be such that they result in the payment being made in a form other than that of the lump sum provided for in regulation 19(2).

- (4) If, in all the circumstances, the scheme administrator considers it appropriate to do so, the scheme administrator may—
- (a) meet the whole or part of any reasonable costs incurred in complying with any condition imposed under this regulation;
 - (b) provide such advice or other assistance as the scheme administrator considers necessary in order to ensure that the payment under the scheme is used for the benefit of the applicant.
- (5) The scheme administrator may vary or remove a condition imposed under paragraph 1 where the scheme administrator considers the circumstances so require.
- (6) In this regulation—
- (a) “deputy” has the meaning given in section 16(2)(b) of the Mental Capacity Act 2005(1);
 - (b) “guardian” has the meaning given in section 57 of the Adults with Incapacity (Scotland) Act 2000(2);
 - (c) “controller” has the meaning given by Article 101 of the Mental Health (Northern Ireland) Order 1986(3).

Notice of a determination

- 18.**—(1) The scheme administrator must send a written notice which states the determination which has been made in the applicant’s case—
- (a) to each applicant; or
 - (b) if the applicant has died, to the personal representatives of the applicant.
- (2) Where a payment is refused under regulation 16(1)(a), the notice must state—
- (a) the reasons for the determination;
 - (b) that the applicant may request a review of the decision; and
 - (c) the period within which such a request is to be made and the procedure for making it.
- (3) Where a payment is to be made under the scheme to an applicant, the notice must state—
- (a) the amount awarded to the applicant;
 - (b) where an amount is to be paid to more than one person, the name of the other persons and the amount awarded to each of them;
 - (c) whether any relevant deduction has been made from the amount awarded to the applicant and, if so—
 - (i) the total amount of all relevant deductions made, and
 - (ii) in relation to each relevant deduction, the nature of the deduction and its amount;
 - (d) whether any conditions are to be imposed (see regulation 17), the nature of the conditions and the reasons for imposing them;
 - (e) that the applicant may, by a written notice sent to the scheme administrator, request a review of the decision; and
 - (f) the period within which such a request is to be made and the procedure for making it.

(1) 2005 c. 9.

(2) 2000 asp. 4.

(3) S.I. 1986 No. 595 (N.I. 4).