
DRAFT STATUTORY INSTRUMENTS

2014 No.

The Diffuse Mesothelioma Payment Scheme Regulations 2014

Reviews and appeals

Review at the request of an applicant

- 21.**—(1) An applicant may request a review of a determination—
- (a) notified to the applicant in accordance with regulation 18(1); or
 - (b) notified in accordance with regulation 20(4).
- (2) No review may be sought on grounds that relate to any matter referred to in regulation 18(3)(c).
- (3) A request for a review of a determination must—
- (a) be in writing;
 - (b) specify the grounds on which a review is sought; and
 - (c) be received by the scheme administrator not later than one month after the date of the written notice of the determination.
- (4) The scheme administrator may extend the time limit in paragraph (3)(c) by a further period where the scheme administrator considers that there was good reason for the failure to request the review before the end of that initial period and for any delay since then in requesting a review under this regulation.
- (5) In a case where a person makes an application and then dies, the reference in this regulation or in any of regulations 22 to 25 to an applicant is to be read as if it were a reference to the applicant's personal representatives.

Review initiated by the scheme administrator

- 22.**—(1) Where the scheme administrator receives information after a determination is made which calls the determination into question, the scheme administrator—
- (a) may decide on its own initiative to conduct a review of any determination referred to in regulation 21(1); and
 - (b) must notify the applicant in writing of the review and the reasons for it.
- (2) The grounds on which a review under this regulation may be held include that—
- (a) whether fraudulently or otherwise, any person has misrepresented or failed to disclose a material fact and the determination to make a payment under the scheme or to require a repayment was made in consequence of the misrepresentation or failure;
 - (b) the determination to make any such payment or require any such repayment was based on a mistake as to a material fact;
 - (c) there was an error or omission which affected the substance of the determination whether to make a payment under the scheme or the amount of any payment made; or

(d) there was an error or omission which affected the substance of the determination whether to require a repayment or the amount of any repayment required.

(3) The applicant may submit written representations to the scheme administrator about the scheme administrator's decision to conduct a review and about any information on which the decision to conduct a review was based.

(4) Any representation which is made under paragraph (3) must be sent so that it is received by the scheme administrator not later than one month after the date of the scheme administrator's notice of the review under paragraph (1)(b).

(5) The scheme administrator may extend the time limit in paragraph (4) by a further period where the scheme administrator considers that there was good reason for the failure to submit written representations before the end of that initial period and for any delay since then in submitting written representations.

Other circumstances in which a review may be held

23.—(1) Where a notice of an appeal which is made by an applicant to the First-tier Tribunal is received by the scheme administrator before a request for a review under regulation 21 is received—

- (a) that notice is to be treated for all purposes as if it were a request for a review; and
- (b) the scheme administrator must delay referring the case to the First-tier Tribunal until the review has been completed.

(2) The scheme administrator must notify the applicant in writing of the matters specified in paragraph (1)(a) and (b).

(3) The applicant may submit written representations to the scheme administrator about the grounds on which the applicant is dissatisfied with the determination which is appealed against.

(4) Any representation which is made under paragraph (3) must be sent so that it is received by the scheme administrator not later than one month after the date of the scheme administrator's notice under paragraph (2).

(5) The scheme administrator may extend the time limit in paragraph (4) by a further period where the scheme administrator considers that there was good reason for the failure to submit written representations before the end of that initial period and for any delay since then in submitting written representations.

(6) Where the determination made on review is that a payment under the scheme is to be made to the applicant, the case is not to be referred to the First-tier Tribunal unless, on being notified of the determination in accordance with regulation 24(4)(b), the applicant sends a notice in writing to the scheme administrator to indicate that the applicant does not accept the determination made on review.

Conduct of the review

24.—(1) The scheme administrator must ensure that, in conducting a review, no member of the scheme administrator's staff who had any involvement in the determination that is subject to review under any of regulations 21 to 23 is involved in making the determination of the review.

(2) Regulations 10 to 13 apply in relation to a review of a determination as they apply in relation to the original determination.

(3) The determinations that may be made on a review are—

- (a) to confirm the original determination; or
- (b) to make any other determination which the scheme administrator has power to make under regulation 16.

(4) The scheme administrator must—

- (a) ensure that the review is carried out as soon as reasonably practicable; and
 - (b) send the applicant written notice of the result of the review.
- (5) The notice under paragraph (4)(b) must—
- (a) state that the original determination has been confirmed or state the terms of any new determination which has been made in the applicant’s case;
 - (b) give reasons for the determination made on the review;
 - (c) in the case of a new determination that a payment under the scheme is to be made to the applicant, specify the details required by regulation 18(3)(a) to (f);
 - (d) state that the applicant may appeal to the First-tier Tribunal against the determination made on review; and
 - (e) state the period within which such an appeal is to be made and provide information as to how to make such an appeal.
- (6) Nothing in this regulation prevents a determination notified to an applicant in accordance with regulation 18(1) or 20(3) from being confirmed on review for reasons that differ in any respect from the reasons given in relation to that determination.

Appeal

25.—(1) An applicant may appeal to the First-tier Tribunal from a determination which has been reviewed under regulation 24(3).

(2) An appeal under this regulation is to be conducted in accordance with the Tribunal Procedure (First-tier Tribunal) (Social Entitlement Chamber) Rules 2008(1).