

SuperViews

From the office of the
Employee Representative
SAS Trustee
Corporation Board



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Many members contact me about unfortunate circumstances that result in them having to apply for incapacity benefits due to medical retirement. Invalidation occurs if you are retired from employment because of physical or mental incapacity to perform your duties.

The article in this issue is written to give members the facts about medical retirement and invalidity benefits,

and hopefully will enable members to more effectively organise their exit from the workplace when it is due to ill-health.



Ron Davis

Medical Retirement and Superannuation Invalidity Benefits

A glossary of abbreviations is given on page 6.

This article describes the process under which an employee may be retired from their employment on medical grounds. It also describes the separate rules that govern an entitlement to an invalidity benefit from their superannuation scheme for members of SSS and SASS, and therefore is most relevant to members of these schemes.

The invalidity benefit entitlement rules for members of the Police Superannuation Scheme (PSS) and First State Super (FSS) are different to those described in the second part of this article. You should refer to your annual benefit statement or contact the scheme administrator for details of the benefits and rules applicable to PSS or FSS.

The **Medical Assessment and Retirement** process described in the first part of the article is directly relevant to most NSW public sector employees ie. those whose employers use the services of HealthQuest to obtain medical assessments from the Government Medical Officer, who is the Director of HealthQuest. However, some employers eg. Universities, engage their own consultants to do medical assessments and in these cases, employees do not have access to the Medical Appeals Panel (Department of Health) if they wish to appeal against an assessment about their fitness to continue working. To find out about your employer's practice, you should check with your Human Resources section and confirm whether HealthQuest is used to conduct employee 'fitness to continue' medical assessments.

It is important to understand that while your own doctors may recommend retirement on medical grounds, entitlement to a superannuation invalidity benefit generally follows from:

- your retirement by your employer, in accordance with the **Medical Assessment and Retirement** procedures described below, and
- confirmation by your superannuation scheme that the conditions governing eligibility for payment of an invalidity benefit have been satisfied — see **Superannuation Invalidity Benefits** further on in this newsletter.

Rights of appeal are available for both steps and these are explained in each section.

Medical assessment and retirement

The Premier's Department has issued detailed 'fitness to continue' procedures for NSW public sector employers to follow when, for reasons of ill-health, an employee's ability to continue working is in doubt. These procedures are set out in Memorandum No. 2001-11, available on the Premier's Department's web site www.premiers.nsw.gov.au (circulars and memos).

The assessment of your fitness to continue working is made by the Government Medical Officer (GMO) or other approved medical practitioner.

The procedures state that both employees and employers have the right to initiate a 'fitness to continue' medical assessment.

As an employee, you may ask for an assessment (through your employer) if you have a medical certificate stating that, in the opinion of your medical practitioner, you are unfit to continue working. *The provision of such a certificate is not, of itself, grounds for your employer to medically retire you. Nor does it establish an entitlement to a superannuation benefit.*

Your employer may initiate a 'fitness to continue' medical assessment for a range of reasons, including:

- a frequent or lengthy illness and absence on sick leave, or
- concerns about the health and safety of others in the workplace.

When arranging an assessment, your employer must provide a report to the GMO or approved medical practitioner that:

- outlines the health-related issue that is affecting your work performance,

- contains an agreed position description that sets out the essential requirements and job demands of your position and provides factual and objective information about how those demands and requirements are not being met (because of your health problem),
- outlines any proposals to resolve the issue including alternative duties or workplace adjustments, and
- includes all sick leave records, recent medical certificates and related information such as rehabilitation reports.

Your employer is required to give you a copy of the report and discuss the need for the medical assessment with you.

After the medical assessment, the GMO or approved medical practitioner may recommend that you are:

- fit to undertake the essential requirements and job demands of your position, or
- fit to continue work with adjustments and/or a rehabilitation program, or
- presently unfit but will be fit to return to work in the future either in your normal duties or in modified or alternative duties, or
- permanently unable to carry out the essential requirements and job demands of your position.

The role of the GMO is to advise your employer about your fitness. The employer is obliged to use this advice to determine whether or not you should be medically retired. Medical retirement decisions are the responsibility of the Department Head.

Appeals against *fitness to continue* medical assessments

If you wish to appeal against a 'fitness to continue' medical assessment, you must lodge a notice of appeal within 21 days after receiving notification of your employer's decision. **Important Note:** this applies only to employees who were medically examined by the GMO or a delegated examiner through HealthQuest. If you were medically examined outside this process, you should ask your employer if you have any right of appeal against your medical assessment.

Appeals are made to the Medical Appeals Panel (MAP). For a copy of the brochure that outlines MAP's role, the employees it applies to and its review processes, simply contact MAP direct on telephone (02) 9391 9053. The brochure describes in simple terms the role and process that MAP takes into account in making its determination.

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FIVE WAYS TO GET THE MOST FROM YOUR SAVINGS

Good savings habits are the foundation of successful wealth creation. Let's look at five savings "rules" that can help you start saving more today.

1 Pay yourself first

A secret to successful saving is to make it a priority. Pay yourself as you would a regular bill, for example just like the gas or water. One of the easiest (and most painless) ways to do this is to ask your paycentre to put an amount in a separate savings account or investment fund each pay. That way, you won't miss what you don't see.

2 Little and often

One of the savings "deadly sins" is procrastination. "I'll start it next week, next month, next year." Start today. A simple decision to go without one takeaway meal worth \$25 a week, means you will have saved \$1,200 by the end of the year. The secret is to commit to saving regular, small amounts, which will add up surprisingly quickly. In savings, discipline really pays.

3 Avoid "lazy money"

Is your money working as hard as you do? "Lazy money" doesn't earn its keep. An example of this is a cheque or savings account that isn't giving you an adequate return. Reassessing your savings strategies can make you money. Consider rolling "lazy money" into superannuation. There are significant tax and retirement lifestyle advantages to this strategy, but you will need to reach your preservation age before you can access these savings.

4 Smart saving – looking outside the square

Exploring other savings options can accelerate your wealth accumulation. For example, salary sacrifice into superannuation is a very tax effective way to

save. By using salary sacrifice your superannuation savings grow faster and you will generally pay less contributions tax (from 15% to 30%) than you would pay under PAYG. Salary sacrifice contributions are employer contributions and count for surcharge and reasonable benefit limits, so you should seek professional advice before you make a decision.

Another option to consider outside superannuation is investing in a managed fund. For an investment of as little as \$500 in a managed fund, you can invest in a range of assets from cash to foreign equities. The secret here is to match your time horizons with your savings goals. If you are planning to buy a new car in 12 months, consider a short term asset like cash. If your time horizon is five years or more, think about taking advantage of the potentially higher returns offered by longer term investments such as shares and property.

5 Talk to a professional

The final savings secret, to help you achieve your financial goals, both long and short term is to have a financial plan. A financial planner can help review your options, and put together a road map for your financial future.

You can discuss your situation with one of our financial planners without cost or obligation in one of our 13 offices across NSW and the ACT. For more information about how a planner can help you, call 1800 620 305, or visit our website at www.ssfs.com.au

It should be noted that this article is published for your interest and every effort has been made to ensure the information contained in it is accurate. The item above is of a general nature only, is not completely comprehensive, and has not taken into account your personal situation or requirements. Also, changes in legislation sometimes occur very quickly. Accordingly, we strongly recommend that you consult a Financial Planner before taking action based on the material above.

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Ups and downs are part of "Investment" life

With the benefit of hindsight, 2002 was not the year to be invested in shares. All investment products with more than a 20% weighting to shares are likely to have done poorly in absolute terms. Cash, real estate and gold were the star performers of the year. However, despite it being a difficult year, 2002 finished on a positive note with returns between 1.2% and 3.3% being generated by the Pooled Fund and the FSS investment products during the December quarter.

For the full year ending December 2002 the returns ranged between 4.8% for Cash Plus and a negative 10.1% for High Growth. Capital Guarded did a bit better than preserving capital by returning 2.6%, whereas Diversified and Balanced returned a negative 5% and a negative 1.1% respectively. The Pooled Fund returned a negative 8.5%.

From time to time it is useful to stop and reflect on the past and think about what may lie ahead. Although we spend time looking ahead, it is well understood that no matter the source or the level of access to quality information, financial market results one year from now will be influenced by many events, some of them not yet on the horizon and any of these could result in unforeseen consequences. There is nothing new in this. Uncertainty is a part of life and an inherent part of investment markets, which from time to time can work to the advantage of the patient investor.

To give an example, 3 years ago many investors were highly confident that international sharemarkets and

technology stocks in particular were the place to invest. Returns had been very strong for a number of years and the more confident investors were the more vulnerable markets became to negative surprises, as valuations became stretched. But after 3 years of negative returns from international shares, investors are less certain and confident despite better valuations and a patient long-term investor is able to take advantage of such opportunities, as and when they present themselves.

Better valuations do not mean that shares are cheap. In the US, shares are

not yet undervalued based on long-term historical averages for price to earnings, price to sales or price to cash-flow. However, relative to bonds, shares look interesting and therefore the conditions for achieving positive returns have improved for growth strategies. Have conditions improved sufficiently? Some well known investment strategists say "yes" and some say "no", which means that markets will continue to be volatile, but hopefully markets will take two steps forward for every one step back.

Net Investment Returns for periods ending 31 December 2002

	3 Months %	1 Year %	3 Years %	5 Years %
Pooled Fund	2.6	-8.5	0.4	4.7
High Growth	3.3	-10.1	-1.5	4.0
Diversified	3.1	-5.0	1.3	4.9
Balanced	2.8	-1.1	3.2	5.4
Capital Guarded	2.4	2.6	4.9	5.6
Cash	1.2	4.8	5.6	5.1

Median Manager

High Growth	2.5	-10.8	-0.5	4.3
Growth	2.8	-7.3	1.3	4.9
Balanced Growth	2.3	-4.2	1.8	4.5
Conservative Growth	2.0	0.2	4.0	4.8

Index Returns

Australian Shares	2.2	-8.8	1.9	6.5
International Shares (unhedged)	3.9	-27.4	-12.6	0.7
Listed Property Trusts	5.5	11.8	14.7	11.1
Australian Bonds	2.6	8.8	8.7	6.8
International Bonds (hedged)	2.0	11.3	9.6	7.9
Cash	1.2	4.8	5.4	5.3

Disclaimer: the information in this newsletter gives a general interpretation of the issues. Nothing in the newsletter is to be regarded as personal advice. Members should seek professional advice before making decisions which may affect their future.

Neither the FSS Trustee Corporation nor the SAS Trustee Corporation necessarily agree with the opinions, nor take any responsibility for the accuracy or completeness of information, contained in material accepted from other organisations for publication in SuperViews.



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03/03

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SASS and SSS superannuation invalidity benefits

Under the legislation governing SASS and SSS, the Trustee SAS Trustee Corporation (STC) is responsible for determining a member's entitlement or otherwise to a scheme invalidity benefit.

Medical evidence submitted with a benefit claim will be reviewed by the scheme administrator to ensure that the specific requirements of the legislation have been satisfied — see **Benefit rules and types** below. In some cases, additional medical examinations or reports may be required.

It can generally be expected that you will be entitled to an invalidity benefit if you are retired by your employer on the grounds of a HealthQuest (GMO) assessment stating that you are unfit to continue working in your current job.

In most cases, State Super does not become involved until the retirement decisions are finalised and you are exiting employment.

Benefit rules and types

SASS and SSS provide different invalidity retirement benefits because each is an individual scheme with its own governing provisions. The basic rules are set out below:

SASS

If you belong to SASS, approval of your invalidity benefit claim may be given, depending on the medical evidence provided, even though you have not been officially retired on medical grounds by your employer.

Payment of an invalidity benefit is made as a lump sum — not a pension.

There are two categories of lump sum invalidity benefit. These are determined by whether or not you are covered for the Additional Benefit and, if so, by the severity of the invalidity. The two categories are: *Partial and Permanent Invalidity* or *Total and Permanent Invalidity*.

Partial and Permanent Invalidity

The Partial and Permanent Invalidity (PPI) benefit is available to all members of SASS, and it applies where you retire from employment and the Trustee is satisfied that:

- (a) your retirement was due, directly or indirectly, to your permanent physical or mental incapacity (not being caused by you and intended to produce the incapacity), and
- (b) you are permanently unable to perform the duties that you were required to perform before suffering the incapacity.

It is the Trustee's policy that:

Where the scheme administrator receives from an employer a certificate that a member aged less than the early retirement age has been retired due to permanent physical or mental incapacity to perform their duties, then the scheme administrator will generally rely on the employer's certificate and pay a partial and permanent invalidity benefit without further medical review. Where the administrator believes there may be other factors that could be considered, the case may be referred to the Trustee.

The PPI benefit is made up of the:

- (a) balance in the scheme member's personal account, and
- (b) employer-financed benefit, which is 2.5% of the *higher* of final salary or final average salary for each accrued benefit point.

Total and Permanent Invalidity

The Total and Permanent Invalidity (TPI) benefit is only available to a SASS member covered for the Additional Benefit. It applies if you retire from employment with an employer and, in addition to the requirements set out above for the PPI benefit, the Trustee is satisfied that you are 'permanently unable to engage in any paid employment in which, in the opinion of the Trustee, it would be reasonable to expect you to engage'.

It is important to note that the TPI test is stricter than the tests that apply to the standard 'fitness to continue' medical assessment and entitlement to the PPI benefit.

In addition to the benefit payable on PPI, the Additional Benefit may be payable. The Additional Benefit is 4% of the *higher* of final salary or final average salary for each *prospective benefit point* to age 58. This may vary for members who were compulsorily transferred into SASS from earlier schemes which closed.

Prospective benefit points are the benefit points that could have been expected to accrue between the date of the invalidity retirement and the early retirement age. Their calculation is based on your average rate of benefit point accrual during your membership. The total of these prospective benefit points makes up the *future service* component of a TPI benefit.

SSS

Payment of an invalidity benefit is made as a pension — with a lump sum option available at age 55. A pension is payable if you retire on the grounds of invalidity or physical incapacity to perform your duties (again, the ultimate responsibility for determining this rests with the Trustee). The pension entitlement is the full rate applicable to normal retirement.

| Basic Benefit

In addition to the contributory scheme invalidity benefits described above, SASS and SSS members are also entitled to the non-contributory Basic Benefit. Non-contributory benefits are funded by your employer.

| Commonwealth preservation requirements

You should know that even where a scheme invalidity benefit has been approved for payment to a retired member, you may still need to provide additional medical evidence in order to receive immediate payment of the full benefit amount.

This is because Commonwealth provisions require part of a superannuation benefit to be preserved in the superannuation system until retirement from the workforce at or after the member's *preservation age* (between 55 and 60 depending on the date of birth).

However, the preserved part of a benefit may be released earlier if you are 'totally and permanently incapacitated'. You are deemed to be totally and permanently incapacitated if you have provided two medical certificates from qualified doctors certifying that you are 'unlikely to ever be employed in a capacity for which you are reasonably qualified because of education, training or experience'.

The test of total and permanent incapacity for release of a preserved benefit under the Commonwealth rules is different to the rules that apply to eligibility for a scheme invalidity benefit. There are many cases where a scheme member must provide two medical certificates to secure full benefit payment on medical retirement, even though eligibility for the invalidity benefit has been approved by the scheme on the basis of other medical evidence.

| Disputes and appeals

If you are dissatisfied with a decision relating to a benefit entitlement, eg. if the scheme administrator, on behalf of the Trustee, has declined a claim for an invalidity benefit, you may *dispute* that decision directly with STC. The Trustee will review the administrator's decision.

If you are still dissatisfied with the STC's decision after the dispute process, you may appeal to the NSW Industrial Relations Commission in Court Session within 6 months of being notified of the decision or within such further period as the Commission allows.

Because the schemes are Government operated they are exempt from the complaints system under the *Commonwealth Superannuation Industry (Supervision) Act 1993* and the *Superannuation (Resolution of Complaints) Act 1993*. Therefore, members cannot lodge a complaint with the Superannuation Complaints Tribunal as that body has no jurisdiction over decisions of STC. However, as explained above, members do have access to a comprehensive dispute resolution and appeal process.

| Abbreviations

FSS – First State Super

GMO – Government Medical Officer

MAP – Medical Appeals Panel

PPI – Partial and Permanent Invalidity

PSS – Police Superannuation Scheme

SASS – State Authorities Superannuation Scheme

SSS – State Superannuation Scheme

STC – SAS Trustee Corporation

TPI – Total and Permanent Invalidity

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