

RULES FOR REFERENCES AND ARBITRATIONS

REVISED DECEMBER, 2017

This protocol sets out the rules for references and arbitrations pursuant to Article 10 of the Transfused HCV Plan, the Hemophiliac HCV Plan and the HCV Late Claims Benefit Plan.

RULES TO THE CONTRARY

1. These rules are rules to the contrary and supersede the applicable rules of Reference or Arbitration in the province or territory where the Reference or Arbitration is being conducted.

REFEREE OR ARBITRATOR

2. A Reference or Arbitration will be heard by one Referee or Arbitrator appointed from the roster of Referees and Arbitrators, as established by the Court having jurisdiction in the Class Action in which the claimant is a Class Member.

NATURE OF REVIEW

3. A Reference or Arbitration shall be a review of the Administrator's decision utilizing the simplest, least expensive and most expeditious procedure for the Reference or Arbitration.
4. In meeting this objective, the Referee or Arbitrator may conduct the Reference or Arbitration in whatever manner he or she considers appropriate, provided that the parties are treated with equality and each party is given a fair opportunity to present his, her or its case.

REPRESENTATION

5. The claimant may act in person on a Reference or Arbitration or through a representative; in which case, the representative shall notify the Administrator and the Referee or Arbitrator in writing providing the written consent of the claimant.

COMMENCEMENT

6. In order to commence a Reference or Arbitration, the claimant shall file a Request for Review by an Arbitrator/Referee in the prescribed form.
7. The Administrator shall forward the claimant's file to the claimant, Fund Counsel and the Chair and/or Vice-Chair of the Roster of Arbitrators/Referees within ten (10) days of receipt of the Request for Review by an Arbitrator/Referee.

8. The claimant shall have fifteen (15) days upon receipt of the claimant's file to forward any supplementary submissions to the Chair and/or Vice-Chair of the Roster of Arbitrators/Referees and the Administrator.
9. The Fund Counsel shall have fifteen (15) days from the date of the Administrator's receipt of the claimant's submissions to forward any submissions in reply to the Chair and/or Vice-Chair of the Roster of Arbitrators/Referees and the Administrator.
10. The Chair and/or Vice-Chair of the Roster of Arbitrators/Referees shall appoint a Referee or Arbitrator in the Province or Territory where the claimant resides or is deemed to reside to take carriage of the matter unless the claimant resides or is deemed to reside in the Province of Québec, in which case the Referee or Arbitrator shall be the Referee or Arbitrator appointed by the Québec Superior Court.
11. The Administrator shall forward to the Referee or Arbitrator, to the claimant and to the Fund Counsel the following:
 - (a) a copy of the Claim and the Request for Review by an Arbitrator/Referee;
 - (b) a copy of all the written submissions and material in support of the submissions and other evidence pertaining to the Claim in the possession of the Administrator;
 - (c) a copy of the Administrator's decision; and
 - (d) such other information or material as the Referee, Arbitrator or Fund Counsel may request.

MEDIATIONS

12. The Arbitrator has jurisdiction to request that the parties enter into mediation. The Referee has discretion to attempt to mediate the dispute at any time in the process.

MODE OF HEARING

13. Within five (5) days of the receipt of the Request for Review by an Arbitrator/Referee, any supplementary submissions by the Claimant and the Claimant's file from the Administrator or reply submissions from Fund Counsel, the Referee or Arbitrator shall verify with the parties if:
 - (a) an oral hearing is necessary; or
 - (b) further written submissions are necessary.
14. Notwithstanding the Referee or Arbitrator's discretion in paragraph 13, an oral hearing will be required where the claimant or Fund Counsel wishes to adduce oral evidence.
15. If no further written submissions are to be provided and no oral hearing is required, the Referee or Arbitrator shall notify the parties that he or she will proceed on the basis of the

Request for Review by an Arbitrator/Referee, the claimant's file, the claimant's supplementary submissions, if any, and any reply submissions.

16. Within thirty (30) days following notification by the parties that no further written submissions or oral hearings will be necessary, the Referee or Arbitrator shall release his or her Reasons for Decision.
17. If further written submissions are required, the Referee or Arbitrator shall notify the claimant and Fund Counsel of the issues to be addressed in the written submissions and the time limits for the receipt of such submissions, including any submissions in reply.
18. Within thirty (30) days following the receipt of the final submissions, the Referee or Arbitrator shall release his or her Reasons for Decision.
19. If an oral hearing is requested by one or more of the parties because the requesting party wishes to adduce oral evidence, the Referee or Arbitrator shall:
 - (a) determine whether the hearing shall be an in-person hearing or conducted by telephone conference and the time, date and location of the hearing and give all parties fifteen (15) days prior written notice of such time, date and location;
 - (b) give directions as to the issues to be addressed at the oral hearing;
 - (c) if necessary, give directions as to the issues which require oral evidence; and
 - (d) provide any other directions, as the Referee or Arbitrator deems appropriate.
20. If an oral hearing with evidence is requested by one or more of the parties because the requesting party wishes to lead oral evidence and the Referee or Arbitrator orders an oral hearing with evidence, the following rules will apply, unless the Referee or Arbitrator makes an order to the contrary:
 - (a) any documentation, including medical records, medical reports and/or loss of income documentation, intended to be relied upon by the claimant shall be produced to the Administrator and the Referee or Arbitrator at least fifteen (15) days prior to the Reference or Arbitration;
 - (b) the Referee or Arbitrator, upon his or her own Notice or upon written request by the Administrator, has the jurisdiction to order an independent medical examination of the claimant;
 - (c) subject to issues of privilege, a Referee or Arbitrator may accept all oral or written evidence as the Referee or Arbitrator, in his or her discretion, considers proper, whether admissible in a court of law or not; and
 - (d) if an oral hearing with evidence is required, the Referee or Arbitrator may require production of documents and examination for discovery, if necessary.

21. Within thirty (30) days following the completion of the oral hearing, the Referee or Arbitrator shall release his or her Reasons for Decision.

CONFIDENTIAL PROCESS

22. The Reference or Arbitration process is private and all information and evidence utilized in the Reference or Arbitration process is confidential.

REASONS FOR DECISION

23. Any Reasons for Decision by a Referee or Arbitrator shall state the facts and conclusions without identifying the claimant by name or location. A Referee or Arbitrator may rely upon earlier decisions of other Referees and Arbitrators to arrive at his or her Reasons for Decision. All decisions shall be posted on the website www.hepc8690.ca. The Referee or Arbitrator may extend the time for the release of the Reasons for Decision if he or she considers such an extension is justified.

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