

**CLASS ACTION -- Hepatitis C 1986-1990
Request for Review # 1200209**

DECISION

The Claimant submitted a claim as a Primarily Infected Person under the Transfused HCV Plan. Her claim was rejected by the Administrator of the 1986-1990 HCV Claims Center, as indicated in the Administrator's letter dated April 6, 2005. It is for this particular decision that the Claimant has made a request for review, hence her Request for Review dated April 29, 2005.

The Claimant informed me by letter from her Counsel that she did not want an oral hearing in this case and that I had to render my decision on the basis of the documentation already on file. The same Counsel also indicated to me that they did not intend to make any additional comments concerning this Request for Review. On the other hand, the Fund Administrator's Counsel provided a written submission that I received in March 2006.

Therefore, I reviewed all the documents submitted to me in this case and I now render this decision.

It is determined that the Claimant would have received two blood transfusions on February 2, 1986, at the *Centre Hospitalier Rouyn-Noranda*. It seems that the blood units received by the Claimant came from donors recruited by the Centre hospitalier Rouyn-Noranda and who were not under the responsibility of the Canadian Red Cross Society. Héma-Québec did not undertake a Traceback Procedure in this case, but I received on March 23, 2006, a letter from the service quality and nursing care director at the *Centre de santé et de services sociaux de Rouyn-Noranda* confirming that the two donors involved in this case had been tested, one in October 2005, the other one in February 2003, and that in both cases, their HCV anti-body tests were negative. I have no reason to doubt the quality of the tests administered to either one of the two donors.

According to Sections 3.01 and 3.04 of the HCV Transfused Plan, the Primarily Infected Person who wishes to be eligible for compensation must demonstrate that he/she has been HCV infected for the first time through a blood transfusion received in Canada during the Class Period. Furthermore, Section 3.04 (1) stipulates that if the results of a Traceback Procedure show that none of the donors or blood units received during the Class Period are or were anti-HCV positive, the Administrator must reject such an HCV Infected Person's Claim. This is what occurred in this case and I see no reason to change the Administrator's decision.

Section 3.04 (2) stipulates that the Claimant can submit evidence to counter the results of a Traceback Procedure. This was not done in this case. I also note that in the TRAN-2 Treating Physician Form, the latter states that the Claimant has other risk factors such as the use of intravenous drugs without prescription, the use of intranasal drugs as well as tattoos. The opinion on file as submitted by Dr. Gary E. Garber at the request of the Administrator, which had been prepared before having obtained the results of the tests administered to both donors who had given blood to the Claimant, adds no significant information, but confirms that the use of intranasal drugs is a risk factor.

In any event, taking into account all documents submitted as well as all of the evidence, I am of the opinion that the Claimant has not demonstrated that she contracted Hepatitis C further to having received one or the other of the blood transfusions received between 1986 and 1990, and I conclude that the Administrator has rightly determined that the claim was groundless.

This Request for Review is therefore dismissed and the Administrator's decision confirmed.

Montreal, July 14, 2006

Original signed by

Jacques Nols

Referee