

DECISION

BACKGROUND

1. On June 7, 2005, the Administrator denied the Claimant's request for compensation for treatments and out-of-pocket expenses relating to intravenous injections he received from a naturopathic doctor.
2. On June 22, 2005, the Claimant requested that the Administrator's denial of his claim be reviewed by a referee.
3. Fund counsel, on behalf of the Administrator, filed written submissions on July 12, 2005.
4. The Claimant filed written submissions on August 4, 2005.
5. The hearing concluded on August 23, 2005 when neither party filed any further submissions.

EVIDENCE

6. It is not disputed that the Claimant qualified for compensation under the Settlement Agreement. He has received lump sum compensation payments and has been reimbursed for certain uninsured medical treatments and related out-of-pocket expenses.
7. On March 2, 2005, the Claimant submitted a Drug Therapy letter to the Administrator requesting compensation for intravenous injections which he claimed qualified as HCV drug therapy. A claim of \$6,658.15 was submitted for injections from a naturopath between November

1, 2004 and February 22, 2005. The Claimant also requested mileage expenses of \$1,985.59 for travel.

8. On March 18, 2005, the Administrator asked the naturopathic doctor to provide more information about the intravenous injections administered to the Claimant. On April 27, 2005, the naturopath confirmed that the injections were a cocktail including vitamins, minerals, antioxidants and homeopathic solutions.

9. The Claimant's treating physician is a professor of medicine at London Health Sciences Centre. On April 28, 2005, the Administrator asked him to confirm whether the homeopathic cocktail was a treatment which he recommended for treatment of HCV. On May 12, 2005, the physician responded that he had referred the Claimant to a naturopath at the Claimant's request.

10. On July 6, 2005, Fund Counsel wrote to the Claimant's treating physician asking him to confirm whether the treatments received by the Claimant were "generally accepted by the medical community as treatment for HCV." On July 7, 2005, the physician replied, "In response to your query about whether they are generally accepted by the medical community, I would say they are not."

ANALYSIS

11. The Claimant seeks compensation under the Transfused HCV Plan. The Transfused HCV Plan defines "Compensable HCV Drug Therapy" as follows:

.... interferon or ribavirin, used alone or in combination, or any other treatment that has a propensity to cause adverse side effects and that has been approved by the Courts for compensation.

12. Sections 4.05 through 4.07 of the Plan provide as follows:

4.05 Compensation for HCV Drug Therapy

An Approved HCV Infected Person who delivers evidence satisfactory to the Administrator that he or she has received Compensable HCV Drug Therapy is entitled to be paid \$1,000 for each completed month of therapy.

4.06 Compensation for Uninsured Treatment and Medication

An Approved HCV Infected Person who delivers to the Administrator evidence satisfactory to the Administrator that he or she has incurred or will incur costs for generally accepted treatment and medication due to his or her HCV infection which are not recoverable by or on behalf of the claimant under any public or private health care plan is entitled to be reimbursed for all reasonable past, present or future costs so incurred, to the extent that such costs are not costs of care or compensation for loss of services in the home, provided:

- a. The costs were incurred on the recommendation of the claimant's treating physician

4.07 Compensation for Out-Of-Pocket Expenses

An Approved HCV Infected Person who delivers to the Administrator evidence satisfactory to the Administrator that he or she has incurred or will incur out-of-pocket expenses due to his or her HCV infection that are not recoverable by or on behalf of the claimant under any public or private health care plan is entitled to be reimbursed for all reasonable costs so incurred provided:

- a. out-of-pocket expenses will include (i) expenses for travel, hotels, meals, telephone and other similar expenses attributable to seeking medical advice or generally accepted medication or treatment due to his or her HCV infection and (ii) medical expenses incurred in establishing a Claim.

13. A number of written protocols (the "Court Approved Protocols" or CAPs) have been approved by the Court to guide the Administrator in applying the terms of the Plan. One of the CAPs deals specifically with uninsured treatment, medical expenses and out-of-pocket expenses related to sections 4.06 and 4.07 of the Plan.

14. The intravenous cocktail received by the Claimant from the naturopath does not meet the definition of Compensable HCV Drug Therapy under section 1.01 of the Plan. Consequently, it can not be compensated for under section 4.05.

15. Section 2 of the CAP defines a Treating Physician as a medical doctor who is or was treating the HCV Infected Person for his or her HCV infection or conditions due to his or her HCV infection. Unfortunately, the naturopath who has been treating the Claimant is not a medical doctor and cannot qualify as the Claimant's Treating Physician. Therefore, the treatments received by the Claimant were not prescribed by a Treating Physician and do not qualify for compensation under section 4.06.

16. The medical doctor who does qualify as the Claimant's Treating Physician has stated that the treatments in question are not generally accept by the medical community.

17. In order for the Claimant to be entitled to reimbursement of his out-of-pocket expenses in connection with the injections, the Claimant needs to establish that the expenses are attributable to seeking generally accepted medication or treatment due to his HCV infection. The Claimant has not satisfied the criteria required for reimbursement of his out-of-pocket expenses under section 4.07.

18. In his written submissions, the Claimant stated that he had undergone two of the approved HCV treatments which had been unsuccessful with disastrous side effects. He referred me to records of blood tests which document his improvement while under the care of the naturopath. He stated that his health condition was deteriorating rapidly in 2004 when he was referred to the naturopath. He credits the intravenous treatments for the marked improvement in his health which has allowed him to live independently with his young daughter. I find it unfortunate that the terms of the Plan do not allow the Claimant to receive compensation for his treatments or out-of-pocket expenses. While I sympathize with the Claimant, I do not have the authority to vary the terms of the Plan which are quite specific about the requirements for compensation.

CONCLUSION

19. I uphold the Administrator's denial of the Claimant's request for compensation related to his treatments and out-of-pocket expenses.



JUDITH KILLORAN

Referee

September 9, 2005

DATE