

REFEREE'S DECISION

1. The Claimant has submitted an application for compensation as a primarily infected person under the HCV Transfused Plan.
2. By letter dated February 6, 2002, the Administrator denied this Claim because the Claimant did not establish that she received blood, as defined by the Settlement Agreement, during the Class Period.
3. The Claimant requested the decision of the Administrator be reviewed by a Referee.
4. A hearing was scheduled to be held in Halifax, Nova Scotia on June 25, 2002. Following a teleconference meeting on June 4, 2002, the June 25th hearing was adjourned to permit Counsel for the Claimant, Ms. Peggy Power, the opportunity to review the matter in more detail with the Claimant.
5. By letter dated November 6, 2002, Counsel for the Claimant advised that it would be appropriate to set the matter down for hearing. A hearing took place on November 14, 2002 in Halifax, Nova Scotia.
6. At the outset of the hearing, Fund Counsel advised the Claimant that the investigation undertaken by the Administrator has revealed that the Claimant received two blood transfusions, one in 1973 and an unverified one in 1958.
7. Fund Counsel further advised that the Traceback conducted by the Administrator had received confirmation from the Colchester Regional

Hospital that the Claimant had not received a blood Transfusion in that Hospital during the Class Period of January 1, 1986 to July 1, 1990.

8. During the hearing, the Claimant, who was not represented by Counsel, testified that she had attempted to get independent evidence including a report from her Doctor. Unfortunately, she was unable to obtain such evidence.
9. The Claimant testified that she was transfused at the Colchester Regional Hospital on August 2, 1986. She noted that her medical chart does not appear to be complete for her stay in that Hospital which took place from August 2 to August 4, 1986 inclusive.
10. The Claimant testified that she was admitted to Hospital with a temperature of 38 degrees and with severe abdominal pain. Her normal white blood count was substantially higher than normal.
11. The Claimant testified that she observed an IV being inserted in her right hand by a nurse that she cannot identify. She received this transfusion in the Outpatient Department of the Hospital. The medical records provided by the Claimant show that an IV was ordered consisting of glucose, salt, water and various electrolytes.
12. The Claimant's mother also testified in these proceedings. She was contacted at home on the morning of August 2, 1986 and went to the Hospital.
13. The Claimant's mother testified that she observed a blood transfusion and an IV being administered to her daughter. The Claimant's mother

further testified that she observed a bag of blood located on the IV pole.

14. The Claimant was advised by Fund Counsel during these proceedings that the Settlement Agreement requires corroborating evidence independent of the personal recollection of the Claimant or a Family Member.
15. Following the conclusion of the hearing, it was agreed that further efforts would be made by both the Administrator and the Claimant to obtain any additional evidence including any medical records that may be in the possession of the Claimant's personal physician before a final decision would be made in this matter. No further information has been obtained despite the efforts of all parties.
16. Counsel for the Claimant requested a meeting of the Parties by teleconference on January 30, 2003. That teleconference meeting, which included the Chairman, took place on February 6, 2003.
17. During that teleconference meeting, the Parties advised that no further information with respect to the Claimant's admission to the Colchester Regional Hospital in August of 1986 had been obtained. Fund Counsel suggested that an attempt be made to investigate prior blood samples of the Claimant, if possible.
18. Counsel for the Claimant agreed to attempt to further review with the Hospital the records concerning the Claimant's visit in August, 1986.

19. In a letter dated March 12, 2003, Counsel for the Claimant advised that the Hospital would not provide any additional information and by letter dated March 21, 2003, Fund Counsel confirmed that that was "the general protocol" of hospitals and other medical authorities.
20. The Undersigned invited further submissions and Counsel for the Claimant made a submission in writing on May 2, 2003. Fund Counsel made a submission in writing on May 8, 2003.

DECISION

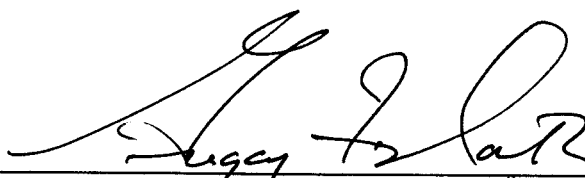
21. The Claimant has applied for compensation under the terms of the Hepatitis C 1986 – 1990 Class Action Settlement, as approved by Court Order dated October 22, 1999. The terms of the Settlement provide in considerable detail who is eligible for compensation, and how eligibility can be proven.
22. One of the initial requirement to qualify for compensation as an eligible Class member is to establish that the Claimant received blood in the Class Period. Membership in the Class is a pre-condition for compensation.
23. In circumstances where hospital records are not available to establish that a Blood Transfusion within the meaning of the Settlement Agreement has taken place, a Claimant may still establish that they received a transfusion pursuant to Section 3.01(2). That provision reads as follows:

“Notwithstanding the provisions of Section 3.01 (1)(a), if a claimant cannot comply with the provisions of Section 3.01 (1)(a), the claimant must deliver to the Administrator corroborating evidence independent of the personal recollection of the claimant or any person who is a Family Member of the claimant establishing on a balance of probabilities that he or she received a Blood Transfusion in Canada during the Class Period.”

24. The plan further specifically identifies “a Family Member” as including a spouse, child, grandchild, parent, grandparent or sibling of a HCV infected person.
25. Therefore, although the Claimant and her mother were entirely credible throughout these proceedings, there is no corroborating evidence as required by Section 3.01 (2).
26. Furthermore, although medical records with respect to the Claimant’s admission to the Colchester Regional Hospital on August 2, 1986 do refer to a request for an IV, the Doctor’s order sheet in that case was requesting a solution consisting of glucose, salt, water as well as various electrolytes. There is no mention in any of the medical records of a blood transfusion.
27. As a result, there is no evidence establishing that the Claimant received a blood transfusion during her stay at the Colchester Regional Hospital in 1986.
28. I can fully appreciate the frustration and disappointment felt by the Claimant who has contracted Hepatitis C. Unfortunately, in

determining eligibility for compensation, I am limited by the conditions set out by the Order approved by the Count.

29. Based on the evidence, it is my finding that the Claimant has not met the eligibility requirements for compensation under the HCV Transfused Plan contained in the Hepatitis C 1986 – 1990 Settlement Agreement. Therefore, the Decision of the Administrator is confirmed.

A handwritten signature in black ink, appearing to read "Gregory I. North", written over a horizontal line.

Dated at Halifax, Nova Scotia this 14th day of August 2003
Gregory I. North, Q.C., Referee