

IN THE MATTER OF HEPATITIS C – CLASS ACTION SETTLEMENT 1986-1990

CLAIM FILE NO. 1400942

REFEREE

Gerald J. Charney, Q.C.

This matter has been the subject of an appeal since December 15, 2006 when the claimant's application for compensation was denied. The reasons for the denial were as follows:

The Settlement Agreement requires the Administrator to determine a person's eligibility for class membership. The Court Approved Protocol ("CAP") for non-prescription intravenous drug use provides that the Administrator shall weight the totality of evidence obtained from the additional investigations required by the provisions of the CAP and determine whether, on a balance of probabilities, the HCV Infected Person meets the eligibility criteria.

The Administrator carefully reviewed all the material that you provided to support your claim. A Committee reviewed your claim and concluded as follows:

Dr. Feinman, the specialist who completed the Treating Physician Form indicated the HCV infected person had a history of non-prescription intravenous drug use. The doctor further wrote "Last use of IV drugs – 1976".

On November 22, 2005, the Administrator notified you in writing that your claim would be rejected unless you provide further evidence to establish on the balance of probabilities that The HCV Infected Person was infected for the first time with HCV by a Blood transfusion received in Canada between January 1, 1986 and July 1, 1990. You submitted complete medical records as well as an affidavit dated August 1, 2006.

In accordance with the Court Approved Protocol, the Administrator has considered all of the evidence submitted including the opinion of a medical specialist experienced in treating and diagnosing HCV and has determined that, on the balance of probabilities, your claim does not meet the eligibility criteria. The Administrator cannot conclude that the HCV infected person was infected by HCV for the first time by a blood transfusion received in Canada in the Class Period; therefore your claim is denied.

After considerable time had passed without response from the Claimant, Fund Counsel enquired in writing on December 24, 2015 whether there was any intention of pursuing the claim. This letter was followed up with letters dated May 25, 2016 and October 17, 2016 requesting again that contact be made to determine whether the matter would be pursued.

The Claimant has subsequently contacted Fund Counsel to advise that he does not wish to proceed with the matter.

Therefore, in these circumstances, I dismiss the appeal.

DATED at Toronto, this 10th day of November, 2016.



Gerald J. Charney, Referee