DECISION

Claim no. 19150

The claimant has requested a review of the decision of the Administrator denying her claim for compensation as a Primarily Infected Person pursuant to the Transfused HCV Plan.

The claim was denied on the basis that the Claimant was not able to provide sufficient evidence that she received blood during the class period.

The claimant was 31-1/2 weeks pregnant and was admitted to St. Joseph's Hospital on May 22, 1987 with preterm labour. She had had bleeding earlier in the pregnancy and ultrasound scanning indicated that she had placenta previa. The physician who saw her at St. Joseph's Hospital recommended a transfer to Grace Hospital, which had a neonatal intensive care facility, because she was likely going to need a caesarean section at 31 weeks for the placenta previa.

She was transferred to Grace Hospital by air ambulance. The physician orders at St. Joseph's Hospital included an order that 4 units of blood be typed and crossmatched.

There is no indication in the St. Joseph's Hospital records that the claimant had any significant bleeding there prior to transport.

The claimant arrived at Grace Hospital on the evening of May 22, 1987. There is a reference in the physician history to her having a "small spot of blood" at 1800. Apart from that, the admission history indicates no bleeding since December. The admission history makes no reference to any blood transfusion prior to arrival at Grace Hospital , nor is there any apparent reason why such a transfusion would have been required. Indeed, the admission history specifically states "no transfusion".

The physician progress notes from May 23 onwards suggest that the claimant may have had an abruption of the placenta, but there was no vaginal bleeding.

There is no reference in the progress notes or the orders to any transfusion.

The claimant underwent a Caesarean section for delivery of her infant on June 3, 1987. There was an order that 2 units of blood be crossmatched on June 2, 1987 in preparation for that procedure. The detailed operative report of the procedure makes no reference to blood transfusion, nor do the post-anesthetic recovery room records or subsequent nursing records. The anesthetic record shows that only Ringer's Lactate ("RL") was administered by way of fluid and there is no indication that any blood was given.

The Grace Hospital records also contain daily "Fluid Balance/Infusion Therapy" records, which record intravenous solutions and the administration of any blood or blood products. Significantly, those records indicate that the claimant had an IV in place on arrival from Comox and records the IV fluid administered. There is no indication of any blood being administered beginning at St. Joseph's Hospital or en route to Grace Hospital. There is no reference in any of the fluid balance records to any blood or blood products being given at any point during this hospital admission.

The records from St. Joseph's Hospital relating to the 4 units crossmatched there have a space to indicate whether the units were administered. The spaces are blank, suggesting that none of those units were administered.

There are no ambulance records relating to the claimant's transfer from St. Joseph's Hospital to Grace Hospital as those records were not retained.

The traceback transfusion report indicates that four units of blood were sent with the claimant from St. Joseph's to Grace Hospital but that there is no way of confirming whether those units were transfused en route or at Grace Hospital.

The claimant's submission is that because the ambulance records were not retained, Standard Operating Procedure 3.01(2) is applicable as it deal with claims where "hospital records" are unavailable. The claimant submits that the ambulance records should be considered "hospital

records" within the meaning of that SOP, and accordingly, the claim can be proven by the existence of the blood recipient notification letter and information confirming the date of the transfusion in issue. The claimant also relies on the fact that she received a BRN letter.

I am not able to accede to the submission of the claimant. As in Decision # 96-July 23, 2003, it appears likely that the claimant received the BRN letter because of the fact that units of blood were crossmatched but they were not necessarily transfused.

As noted in Decision # 96, the SOP is a guideline. The provisions of the Plan take precedence over the SOP. In this case, I am persuaded that I should not accede to the claimant's submission, on the basis that it is clear from the records of both St. Joseph's Hospital and Grace Hospital that no blood products were administered to the claimant at either of those hospitals. The admission records from Grace Hospital also make it clear, in my view, that no transfusion took place during the claimant's transfer to Grace Hospital. Had she been given blood in transit, or been receiving a blood transfusion on arrival at Grace Hospital, it makes no sense that the admission history taken by both nurses and physicians would say "no transfusions". Further, there is no indication in the records of either hospital of any bleeding which would have given rise to the need for a transfusion. It is most likely that the units were cross matched at St. Joseph's Hospital as a precaution in the event that the claimant's placenta previa resulted in bleeding en route or shortly after arrival at Grace Hospital.

I note that the Administrator obtained a letter dated October 26, 2011, from the BC Provincial Blood Coordinating Office, indicating that while there was record of the claimant in the BRNP data source, this could not be considered proof of transfusion given that the hospital records exist stating that this patient was only cross matched.

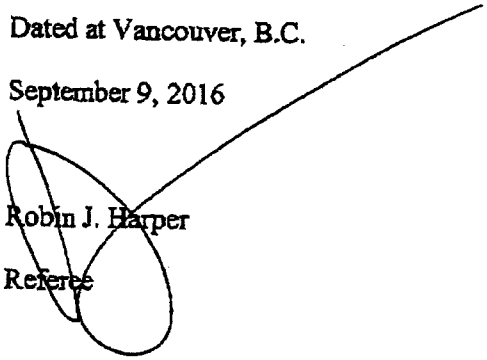
I do not think it was open to the Administrator to conclude, on a balance of probabilities, that the claimant received a blood transfusion in Canada during the Class Period.

I find that in this case, the hospital records are available and confirm that the units of blood cross matched at St. Joseph's Hospital were not transfused, regardless of the lack of the ambulance records.

Accordingly, the decision of the administrator is upheld.

Dated at Vancouver, B.C.

September 9, 2016



Robin J. Harper

Referee