

**Claim No. XXXXX**  
**Province of Infection and Residence: Nova Scotia**

**IN THE MATTER OF A REQUEST FOR REVIEW  
PURSUANT TO THE  
1986 – 1990 HEPATITIS C SETTLEMENT AGREEMENT**

**BETWEEN:**

\_\_\_\_\_, Power of Attorney for \_\_\_\_\_ in her capacity as the personal  
representative of the ESTATE OF \_\_\_\_\_

**Claimant**

**- and -**

**THE ADMINISTRATOR**

**DATE OF DECISION: July 14, 2023**

## DECISION

Claim No. XXXX

### Province of Infection – Nova Scotia

1. The Claimant applied for compensation pursuant to section 3.05 of the Transfused HCV Plan in his capacity as power of attorney for *(Claimant)*, the personal representative of a Primarily Infected Person who died on *(Date)*. The Claimant is the son of the Primarily Infected Person and *(claimant)* is her daughter.
2. By letter dated October 31st, 2011, the Administrator denied the claim on the basis that the Claimant had not provided sufficient evidence to establish that the Primarily Infected Person was first infected with Hepatitis C by a blood transfusion.
3. The Claimant requested that the Administrator's denial of the claim be reviewed by a Referee. The Request for Review was filed by *(Lawyer)* who was a lawyer practicing in *City, Province* at the time.
4. I was appointed as Referee and was provided with a copy of the claim file in late November of 2011. On December 11, 2011, I sent a letter to *(Lawyer)* advising him of my appointment and asking him if the Claimant wanted an oral hearing. I received no response to that request and sent a second letter to *(Lawyer)* on January 13 2013. Again, no response was received so I sent a third letter to *(Lawyer)* on May 29, 2013.

5. On May 6, 2014, (Lawyer) sent an e-mail to Hep C Info indicating the correspondence section of his file had been misplaced and requesting contact information for Fund Counsel.

6. On May 21, 2014 I received the following letter from (Lawyer) :

*I apologize profusely for being so tardy in my response to Mr. S. Outhouse. I've had staffing problems and the entire correspondence section of this file and the Administrator's file was misplaced last year and has just been located.*

*I would like an oral hearing.*

*I'm in the process of obtaining an affidavit from (Claimant) son of the late (Primarily Infected Person), who has the power of attorney to act on behalf of the estate in this matter, given by (claimant) daughter and personal representative of the estate.*

*This matter is somewhat complicated by the fact that (claimant) refuses to get involved in this claim in any capacity. I anticipate that the only witness I have will be (claimant) if that. The matter may be further complicated by the fact that (Claimant) is practically illiterate so any documents to be questioned on will have to be read to him. I'm not even sure I can get him to come to an oral hearing.*

*This seems to be a very unique family where nobody wants to step out of their house or talk on the phone. Getting information from any of them is most difficult. They all seem somewhat reclusive. I thought an affidavit from (Claimant) if I can get him to sign one, just giving some basic background on the deceased regarding any pre-1986 hospital visits (since no records exist), no risk factors, etc. may be helpful in lieu of any family appearance at an oral hearing and perhaps we won't need an oral hearing.*

*I'm also waiting to hear from some HCV specialists regarding a medical legal report concerning the likelihood that the HCV infection came from the 1986 transfusion even though the Traceback for that unit was negative.*

*I accept responsibility for the delay, but, I would like to move this matter on given the time which has passed. If there was an oral hearing, what are the possible hearing dates.*

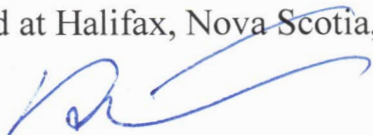
*Thank you.*

7. On June 11, 2014, I sent a letter to *(Lawyer)* directing that, given the lengthy delay which had already occurred, *(Claimant)*'s affidavit, as well as any medical legal report, should be filed but not later than September 15, 2014.
  
8. On September 25, 2014 I received an e-mail from *(Lawyer)* stating that he had been in a motorcycle accident in early August and would need more time to prepare his client's affidavit. I replied by e-mail on September 26, 2014 and asked *(Lawyer)* how much more time he would need to complete his client's affidavit. *(Lawyer)* did not respond to this e-mail and I never heard from him again.
  
9. I'm aware that Fund Counsel has subsequently made several attempts to contact *(Lawyer)* without success. I'm also aware that Fund Counsel has sent letters to the Claimant and *(claimant)* but has received no response. Fund Counsel did locate an obituary which indicates that the Claimant died in 2021.
  
10. On July 10, 2023, I received a request from Fund Counsel to dismiss the claim on the basis that the request for review was filed years ago and has not progressed. In Fund Counsel's view, the claim has been abandoned.
  
11. I concur with Fund Counsel. This is not just a case of undue delay. From the outset of the review process, the Claimant did not actively pursue the matter. No information of any kind, medical or otherwise, has been provided which would justify finding that the Administrator's denial of the claim was in error. The time limits in the Settlement Agreement for the Claimant to

provide such information expired years ago and there is not the slightest indication that anything has been done to advance the matter for more than a decade.

12. Accordingly, the appeal is dismissed.

Dated at Halifax, Nova Scotia, this 14<sup>th</sup> day July, 2023.



Bruce Outhouse, K.C., Referee