

APPENDIX A10

COURT APPROVED PROTOCOL

LOSS OF THE SERVICES OF THE HCV INFECTED PERSON IN THE HOME

REVISED AUGUST 2024

This protocol applies to sections 4.03 and 6.01(2) of the Transfused HCV Plan, the Hemophiliac HCV Plan and the HCV Late Claims Benefit Plan and the loss of services 2013 and 2019 Special Distribution Benefits payments made pursuant to the 2016¹ and 2023² Allocation Orders.

For additional provisions concerning Special Distribution Benefits for loss of services in the home that may be applicable to alive permanently disabled Dependants and Late Claim Dependants under the 2017 Allocation Implementation Orders³ see the protocol entitled: Special Distribution Benefit Election for Alive Permanently Disabled Dependants.

GENERAL ELIGIBILITY CRITERIA

1. An Approved HCV Infected Person or an Approved Late Claim HCV Infected Person at Disease Level 3 or higher who normally performed household duties in his or her home and who delivers proof satisfactory to the Administrator that his or her infection caused his or her inability to perform these household duties shall be eligible for compensation for loss of services in the home as provided for in the Plans and this protocol.
2. The Approved Dependants or Approved Late Claim Dependants of a deceased Approved HCV Infected Person or a deceased Approved Late Claim HCV Infected Person, who were ordinarily resident with him or her at the time of his or her death, shall be eligible for compensation for loss of the deceased's services in the home as provided for in the Plans and this protocol.
3. The maximum number of hours per week that may be compensated for loss of services in the home is 22. The Transfused HCV Plan and the Hemophiliac HCV Plan provide for a maximum recovery of 20 hours per week of loss of services in the home and the 2013 Special Distribution Benefits under the 2016 Allocation Orders provide for a maximum recovery of 2 additional hours. The HCV Late Claims Benefit Plan provides for a maximum recovery of 22 hours per week of loss of services in the home.
4. The hourly rate payable in respect of loss of services in the home incurred up until December 31, 2018 was \$12 per hour (in 1999 dollars). For loss of services in the home incurred after December 31, 2018, the hourly rate is increased to \$13 per hour (in 1999

¹ Ontario order dated August 15, 2016, British Columbia order dated August 16, 2016, and Quebec judgments dated August 15, 2016 and February 15, 2017

² Ontario order dated May 30, 2023, Quebec judgment dated May 30, 2023, and British Columbia Order dated May 30, 2023

³ Quebec judgment dated November 29, 2017, Ontario order dated December 12, 2017, and British Columbia order dated December 19, 2017

dollars) by the 2019 Special Distribution Benefit under the 2023 Allocation Orders. The applicable hourly rate payable will however be indexed to its current dollar value at the time the payment is made.

5. An Approved HCV Infected Person or an Approved Late Claim HCV Infected Person may not recover compensation for both loss of income and loss of services in the home for the same period of time. Similarly, Approved Dependants or Approved Late Claim Dependants may not recover both loss of support and loss of services in the home for the same period of time.
6. An Approved HCV Infected Person or an Approved Late Claim HCV Infected Person may recover loss of services in the home while continuing to work or in lieu of loss of income if it is financially advantageous and he/she satisfies the other eligibility criteria.
7. Once a claim for loss of income ceases because an Approved HCV Infected Person or an Approved Late Claim HCV Infected Person reaches age 65, he or she may commence receiving compensation for loss of services in the home if he or she satisfies the other eligibility criteria. Similarly, once a claim for loss of support ceases because the 65th birthday of the deceased Approved HCV Infected Person or Approved Late Claim HCV Infected Person is reached, Approved Dependants or Approved Late Claim Dependants may commence receiving compensation for loss of services in the home if the other eligibility and entitlement criteria are satisfied.
8. Approved HCV Infected Persons and Approved Late Claim HCV Infected Persons aged 12 years and older may recover compensation for loss of services in the home if they satisfy the other eligibility criteria.

ENTITLEMENT OF LIVING APPROVED HCV INFECTED PERSONS OR APPROVED LATE CLAIM HCV INFECTED PERSONS

9. Compensation for past loss of services in the home is payable to an eligible living Approved HCV Infected Person or Approved Late Claim HCV Infected Person, back to the date of his or her HCV disability.
10. Compensation for loss of services in the home is payable to an eligible living Approved HCV Infected Person or Approved Late Claim HCV Infected Person until the date of his or her death (subject to any change as a result of a re-evaluation of the person's medical condition).

CALCULATION OF PAYMENT FOR LIVING APPROVED HCV INFECTED PERSONS OR APPROVED LATE CLAIM HCV INFECTED PERSONS

11. The Treating Physician Form and Loss of Services in the Home – Master Form will provide the Administrator with a percentage disability estimate by the physician together with the number of hours the eligible Approved HCV Infected Person or Approved Late Claim HCV Infected Person states he or she can no longer perform services in the home. Entitlement to loss of services, subject to the provisions of this paragraph and paragraphs 12, 13 and 14 below, will be calculated in accordance with the following:

- (a) if the physician indicates that the Approved HCV Infected Person or Approved Late Claim HCV Infected Person is 60% or more disabled, then the Approved HCV Infected Person or Approved Late Claim HCV Infected Person will be entitled to the number of hours of work in the home which he or she is no longer able to do up to a maximum of 22 hours per week multiplied by the applicable hourly rate indexed to the dollar value at the time the payment is made;
 - (b) if the physician indicates that the Approved HCV Infected Person or Approved Late Claim HCV Infected Person is 30% or more disabled but less than 60% disabled, then the Approved HCV Infected Person or Approved Late Claim HCV Infected Person will be entitled to the number of hours of work in the home which he or she is no longer able to do up to a maximum of 11 hours per week multiplied by the applicable hourly rate indexed to the dollar value at the time the payment is made;
 - (c) if the physician indicates that the Approved HCV Infected Person or an Approved Late Claim HCV Infected Person is less than 30% disabled, then the person will be entitled to the number of hours of work in the home which he or she is no longer able to do up to a maximum of 5.5 hours per week multiplied by the applicable hourly rate indexed to the dollar value at the time the payment is made.
12. An Approved HCV Infected Person or Approved Late Claim HCV Infected Person who qualifies at Disease Level 6 will be presumed to be entitled to the maximum weekly number of hours for loss of services in the home unless the information on Loss of Services in the Home – Master Form indicates less than 22 hours of services per week have been lost.
13. The payments set out in paragraph 11 are presumptive only. An Approved HCV Infected Person or an Approved Late Claim HCV Infected Person may provide information, satisfactory to the Administrator, that because of his or her personal circumstances he or she should be entitled to a payment greater than the payment calculated under paragraph 11, up to the maximum number of hours per week for loss of services in the home.
14. The Administrator may periodically reassess the entitlement of an Approved HCV Infected Person or an Approved Late Claim HCV Infected Person to compensation for loss of services in the home and, in particular, may each year ask for an updated Loss of Services in the Home – Master Form and Treating Physician Form.

ENTITLEMENT OF DEPENDANTS AND LATE CLAIM DEPENDANTS OF DECEASED HCV INFECTED PERSONS

15. Where the eligible deceased HCV Infected Person died after January 1, 1999, past loss of services in the home will be payable back to the date of his or her HCV disability to the extent loss of services in the home or loss of income was not already paid to the Approved HCV Infected Person or Approved Late Claim HCV Infected Person for the same time period prior to his or her death. Any amount owing for loss of services in the home up to the date of death will be payable to the deceased's Approved HCV Personal

Representative or Approved Late Claim HCV Personal Representative. Any amount owing for loss of services in the home after the date of death will be payable to the Approved Dependants or Approved Late Claim Dependants.

16. Where the eligible deceased HCV Infected Person died before January 1, 1999, past loss of services in the home will be payable from the date of death of the HCV Infected Person. Any amount owing for loss of services in the home from and after the date of death will be payable to the Approved Dependants or Approved Late Claim Dependants.
17. At the time the Dependants or Late Claim Dependants are first approved for loss of services, the Administrator will calculate a notional life expectancy of the deceased HCV Infected Person using the then current Canada Life Tables without reduction for any pre-existing ailment or illness (including HCV) to determine the maximum period loss of services in the home may be payable.
18. Loss of services in the home will be paid to Approved Dependants or Approved Late Claim Dependants up to the calculated notional life expectancy of the deceased HCV Infected Person, so long as the Spouse who is an Approved Dependant or Approved Late Claim Dependand remains alive or there is a Child who is an Approved Dependant or Approved Late Claim Dependand who continues to qualify for payments. Payments for loss of services in the home will cease upon the death of the Spouse who is an Approved Dependand or Approved Late Claim Dependand, unless there is a Child who continues to qualify for payments as an Approved Dependand or an Approved Late Claim Dependand.⁴
19. Where the Approved Dependand or Approved Late Claim Dependand claiming is a Child, the loss of services in the home will be presumed to continue until his or her 25th birthday unless the Child provides evidence satisfactory to the Administrator that some other period of loss is appropriate.
20. Approved Dependants or Approved Late Claim Dependants claiming loss of services in the home will be advised at the time the claim is approved of the maximum period that loss of services in the home could be paid in the circumstances of their cases (ie. up to the notional life expectancy calculated for the deceased HCV Infected Person).

CALCULATION OF PAYMENT FOR APPROVED DEPENDANTS OR APPROVED LATE CLAIM DEPENDANTS

21. Approved Dependants or Approved Late Claim Dependants who qualify to receive loss of services will be presumed to be entitled collectively to receive the maximum number of hours per week for loss of services in the home unless the information on the most recent Loss of Services in the Home – Master Form and Treating Physician Form

⁴ Dependants and Late Claim Dependants who qualify as permanently disabled under the Special Distribution Benefit created by the 2017 Allocation Implementation Orders may be entitled to have their loss of services benefit extended if they make a request to the Administrator and meet the eligibility requirements as set out in the Protocol entitled: Special Distribution Benefits for Approved Dependants and Approved Late Claim Dependants who are Alive and Permanently Disabled.

indicates less than 22 hours per week of the deceased's services in the home have been lost.

ALLOCATIONS AND PAYMENTS FOR APPROVED DEPENDANTS OR APPROVED LATE CLAIM DEPENDANTS

22. Where one or more Approved Dependant or Approved Late Claim Dependant is a Child who is a minor or is a mentally incompetent adult, both the allocation of the loss of services payments and their payment is governed by the provisions of the Court Approved Protocol – Claims or Late Claims Involving Family Members and/or Dependents.