

SOP - S.3.01(2) OF TRANSFUSED HCV PLAN

Evidence Of The Unavailability of Hospital Records

1. In every case where it is asserted that the hospital records of a person claimed to be a Primarily-Infected Person have been destroyed or are otherwise unavailable, the claimant must provide, or the Administrator must obtain, documentation from the hospital(s) at which the person claimed to be a Primarily-Infected Person is said to have been transfused confirming that the records have been destroyed or are otherwise unavailable, together with a consent form signed by or on behalf of the person claimed to be a Primarily-Infected Person authorizing the Administrator to communicate with the hospital(s) and make further inquiries about the availability of records.

Evidence Where There Are No Hospital Records Or Where Hospital Records Are Available But Do Not Confirm Transfusion And The Person Claimed To Be A Primarily-Infected Person Received Notification As Part Of A Blood Recipient Notification Program

2. Where a person claimed to be a Primarily-Infected Person has been the subject of the British Columbia or Nova Scotia Blood Recipient Notification Projects ("BRNPs") and has hospital records that do not confirm that blood was transfused or, subject to paragraph 1, where hospital records are destroyed or unavailable, the Administrator shall accept the following in satisfaction of s.3.01(2) of the Transfused HCV Plan:

- a. a letter from the British Columbia Ministry of Health or the Nova Scotia Department of Health (a "BRNP notification letter") pertaining to the person claimed to be a Primarily-Infected Person in substantially similar form to those found at Appendix "A" to this SOP as proof of transfusion; and
- b. a consent form signed by or on behalf of the person claimed to be a Primarily-Infected Person authorizing the Administrator to obtain information from any relevant provincial health authority (such as BRNP) or hospital which may have information about the unit numbers of blood transfused to the person claimed to be a Primarily-Infected Person and/or the dates of transfusion. If the BRNP notification letter does not confirm that the transfusion took place during the Class Period, the Administrator shall make inquiries of the relevant provincial health authority as to the date of transfusion; and
- c. unless the information obtained through paragraphs 1 or 2(a) or (b) confirms that the date of the alleged transfusion(s) was during the Class Period, an affidavit of a person who is not the person claimed to be a Primarily-Infected Person or a Family Member of the person claimed to be a Primarily-Infected Person confirming that the person claimed to be a Primarily-Infected Person was hospitalized during the Class Period, and providing the following particulars:

- i. the month and year of the hospitalization(s);
- ii. the reason for the hospitalization(s);
- iii. the basis of the affiant's personal knowledge that the person claimed to be a Primarily-Infected Person was hospitalized; and
- iv. whether or not the affiant has personal knowledge that the person claimed to be a Primarily-Infected Person was transfused during the hospitalization(s), and if so, the basis of that knowledge

For purposes of clarity, the Administrator must be satisfied on a balance of probabilities that the transfusion referred to in a BRNP notification letter took place during the Class Period.

3. The Administrator shall attempt to obtain from the hospital(s) blood bank the unit numbers of blood transfused to the person claimed to be a Primarily-Infected Person. If the Administrator obtains the unit numbers or some of them, the Administrator shall apply the Court Approved Protocol- Criteria for Traceback Procedure For Persons Claimed to Be Primarily-Infected Persons - Transfused HCV Plan.

Evidence Where There Are No Hospital Records Or The Hospital Records Do Not Confirm Transfusion And The Person Claimed To Be A Primarily-Infected Person Did Not Receive Notification As Part Of A Blood Recipient Notification Program

4. Subject to paragraphs 1 and 6 and the following constraints, the Administrator may accept any evidence it deems reliable as proof on the balance of probabilities of a transfusion during the Class Period in satisfaction of s.3.01(2) of the Transfused HCV Plan:

- a. evidence of the person claimed to be a Primarily-Infected Person or a Family Member of the person claimed to be a Primarily-Infected Person may not be considered unless there is corroborating evidence independent of the recollection of the person claimed to be a Primarily-Infected Person or any person who is the Family Member of a person claimed to be a Primarily-Infected Person; and
- b. any evidence which is in the nature of personal recollection must be in affidavit form and must provide the following particulars:
 - i. the month and year of the hospitalization(s);
 - ii. the reason for the hospitalization(s); and
 - iii. the basis of the affiant's personal recollection that the person claimed to be a Primarily-Infected Person was transfused during the hospitalization(s);

5. Subject to paragraph 4, the following are examples of the type of evidence which the Administrator may consider:

- a. an affidavit of a medical practitioner or hospital employee involved in the care of the person claimed to be a Primarily-Infected Person at the time of the alleged transfusion(s) who recalls the transfusion(s);
- b. the opinion of a medical practitioner, who practices in the speciality to which the person claimed to be a Primarily-Infected Person's underlying medical condition belongs or specializes in blood banking, that at the time the alleged transfusion(s) took place, and given the nature of the medical treatment the person claimed to be a Primarily-Infected Person underwent and/or the circumstances of the person claimed to be a Primarily-Infected Person at that time, it is more likely than not that the person claimed to be a Primarily-Infected Person was transfused. If such an opinion is advanced by a person who does not have personal knowledge of the person claimed to be a Primarily-Infected Person's underlying medical condition, the medical treatment the person claimed to be a Primarily-Infected Person underwent and the circumstances of the person claimed to be a Primarily-Infected Person at the time of the alleged transfusion, there should be independent evidence of the underlying medical condition, the medical treatment and the circumstances of the person claimed to be a Primarily-Infected Person at the time of the alleged transfusion other than the recollection of the person claimed to be a Primarily-Infected Person or any person who is a Family Member of the person claimed to be a Primarily-Infected Person;
- c. an affidavit of a person who witnessed the transfusion(s); or
- d. hospital or other medical or clinical records which describe significant blood loss or refer to a transfusion(s) at the time of the alleged transfusion(s).

6. The Administrator shall attempt to obtain from the hospital(s) blood bank the unit numbers of blood transfused to the person claimed to be a Primarily-Infected Person. If the Administrator obtains the unit numbers or some of them, the Administrator shall apply the Court Approved Protocol - Criteria for Traceback Procedure For Persons Claimed to Be Primarily - Infected Persons - Transfused HCV Plan.