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DEPARTMENT OF HEALTH

Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000
From the Parliamentary Under Secretary of State

POH(3)4398/43

Peter Butler Esq MP

Dear Peter,

14 DEC 1995

Thank you for your letter of 22 November to Gerald Malone enclosing one from your constituent Mr GRO-A of GRO-A about the Haemophilia Society's campaign for compensation for patients who have been infected with hepatitis C as a result of NHS treatment and about VAT on treatment and prescriptions.

My predecessor explained the Government's position on those infected with hepatitis C in the Adjournment Debate on 11 July 1995. We have great sympathy with those patients who may have become infected with hepatitis C through blood transfusions or blood products. However, in the absence of negligence we have no plans to make special payments.

Those haemophilia patients infected with hepatitis C were generally infected before 1985 when blood products started to be heat treated to destroy viruses. They received the best treatment available in the light of medical knowledge at the time. It has to be recognised that few medical interventions are entirely risk free. Risks may be evident at the time of treatment or may be discovered later.

The Government has never accepted the case for a no fault scheme of compensation for medical accidents. It is unfair to others and still requires proof of causation which is often difficult to establish. Every individual case where a medical accident has occurred is a personal tragedy for both the individual concerned and their family. If the NHS is proved negligent in a Court, it accepts its liability to pay damages.

If an exception were to be made for the haemophilia patients who may have been infected with hepatitis C through NHS treatment, there would be others who would argue that they too were deserving.

It is the Government's view that the most effective use of resources is to seek to improve the understanding, management and treatment of the condition. Only in this way can the impact of the disease on individual patients and their families be effectively minimised. We are giving the Haemophilia Society additional funding for research to see how they can help and support those with haemophilia who have contracted hepatitis C.

We are also considering a range of potential initiatives to improve the understanding, treatment and management of hepatitis C. This could include encouragement of research into the condition and guidance to the NHS on best practice where there is a clinical consensus.

Mr GRO-A also raises the question of VAT on synthetic Factor VIII, known as recombinant Factor VIII, used in the treatment of haemophilia and on prescription charges.

Questions of VAT on these and other products are for Customs and Excise. Customs and Excise has, however, advised that all drugs and therapeutic substances supplied by manufacturers and wholesalers to hospitals are chargeable with VAT at the standard rate. Human blood and substances derived from it including the traditional Factor VIII are exempt and are the exception and not the rule. Recombinant products, being synthetic and not derived from human blood, are therefore not within the exception. Following advice from the Department of Health on the nature of these products, Customs advised suppliers that recombinant Factor VIII should be standard rated. This is in line with the VAT liability of these products in other Member States.

Products derived solely from human plasma continue to be used for the majority of patients and have a good safety record. Decisions on what treatment should be given are for the clinical judgement of the doctors concerned, in the light of available resources and the needs of individual patients.

I have been advised by Customs and Excise that the prescription charge is a statutory fee paid by the patient to the NHS and, as such, is not liable to VAT. There are no plans to change this.

Yours

GRO-C

JOHN HORAM