

Him 16/3

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From: R.M.Gutowski
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Hepatitis C Payment Scheme – Spontaneous Clearers

1. When the Hepatitis C Payment Scheme was introduced last year the four Health Ministers in announcing the Scheme detailed the eligibility criteria for payment. One of the criteria of the Scheme has been that those patient's who were infected with Hepatitis C by infected NHS Blood, but who cleared the disease spontaneously in the acute phase (usually the first six months of infection) were not eligible for payment. Statistics indicate that 20% of all people infected with Hepatitis C clear the virus in the 'acute' phase without long-term physical damage. The policy adopted by all four Health Administrations from the outset has been that no account would be taken of any pain, discomfort, loss of earnings etc incurred in the past, or of psychological damage or social disadvantage continuing after they cleared the virus.

2. More recently it has transpired that a very small numbers of people clear the virus after the infection continuing beyond the 6-month period i.e. in the 'chronic' phase. It was decided to include these people within the scope of the scheme. People who clear the virus in the chronic phase as the result of treatment were already included (following advice from DWP).

3. All the above decisions were made following submissions to the four Health Ministers and the criteria made public. Even so a number of claimants (about 90) have made claims (knowingly or mistakenly) outside the stated eligibility criteria of the Scheme. Unknown to us the Skipton Fund who administer the scheme on our behalf have held on to these claim forms rather than reject them on receipt. They asked for further clarification of the situation and have now been instructed to send out the rejection letters, which are going out today. We have asked them to include the following explanatory paragraph in the letter:

"patients would only be eligible for the first payment if (i) there was evidence that they had developed chronic hepatitis C infection but this had resolved spontaneously (thought to be a reasonably rare situation) or (ii) had developed chronic hepatitis C infection but subsequently cleared the virus as a result of treatment. Patients who had, or were thought to have, eliminated the virus in the acute stage, when they would most likely have been asymptomatic or where any symptoms that did occur would have been short lived because of the transient nature of the infection, would not be eligible for this payment. It should be assumed that the virus has been cleared in the acute phase unless robust medical evidence is cited that proves, on the balance of probabilities, that the patient experienced chronic infection i.e. infection that extended after the first six months of illness"

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Conclusion

4. We believe the instruction we have given is reasonable and entirely consistent with the principles underpinning scheme that have been stated from the outset. By the same token, it would be unreasonable use of public money to pay out where there was no evidence on offer. However in holding onto the application forms, and saying advice is being sought from the Departments, the Skipton Fund have given people a hope that their applications may well be successful even though they do not fulfil the criteria of the Scheme. I have already alerted PS(PH) that there could be a reaction to the rejection letter. We know of one applicant whose MP is lobbying the Department on her behalf but today's letters may also lead to some media activity.

Suggested lines to take

- **Ministers have made it clear from the outset that the scheme would only make payments to patients who had experienced lasting physical damage as a result of their infection.**
- **That means that patients who cleared the virus spontaneously within the first six months of infection are not eligible. It is thought that very few people clear the virus spontaneously in the chronic phase of the disease that follows. However, such people would be eligible if their clinician's can provide evidence that shows, on the balance of probabilities that this had occurred.**
- **This is a lower standard of evidence than is normally applied and reflects Ministers' commitment to keep bureaucracy to a minimum for claimants. However, it would be quite wrong to use public money to make payments where this evidence is not available.**

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