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Wednesday 1 May 1991

PQ1967/1990/91

The Lord Molloy - To ask Her Majesty's Government what is their policy towards AIDS sufferers who received infected blood from NHS transfusions.

BARONESS HOOPER

The Government has great sympathy for those who became infected with the AIDS virus as a result of blood transfusions. [However their case is no different in principle from that of other people who have suffered from medical accidents or the unintended side effects of treatment.] The Government continues to believe that a general scheme of no-fault compensation would create more problems than it would solve.

The normal practice in

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NOTES FOR SUPPLEMENTARIES

1. Numbers infected

There have been 135 reports of people infected with HIV through blood transfusions. Of those, 49 were transfused in the United Kingdom, 49 were transfused abroad, and in the remaining 37 the place of transfusion is unknown.

There have also been 65 reports of transfusion recipients with AIDS of which 28 cases are known to have been transfused in the United Kingdom and the remainder abroad. An unknown number of the AIDS cases are also included in the HIV reports. The total number infected is therefore between 135-186.

We do not know how many have died of their original condition, but 20 people who contracted AIDS are known to have died.

2. Small cost to compensate

It has been argued that the cost involved is comparatively small but that overlooks unfairness which could result if similar treatment were not offered to disadvantaged groups - not only those injured as an unfortunate side effect of National Health Service treatment, but also those suffering from an inherited disability.

3. Treatment abroad

There is no case for the National Health Service to bear the cost for those treated abroad. Payments to haemophiliacs are restricted to those infected in the United Kingdom.

4. Haemophiliacs a special case

Not compensation - but of cost settlement with acceptance of liability responsibility.

The circumstances of HIV-infected haemophiliacs are exceptional and justify the special provision which the Government are making. ✓

Haemophiliacs were doubly disadvantaged by the pre-existing haemophilia, which affected their employment, mortgage and insurance prospects, and by their HIV infection. ✓

The hereditary nature of haemophilia can mean that more than one member of the family might be affected. ✓

The combination of factors which beset haemophiliacs would not generally apply to blood transfusion cases. ✓

(Thalassaemia & sickle cell anaemia) - an exceptional combination of circumstances & not generally true of blood transfusion cases

5. Difficulties in validating blood transfusion cases

Whereas haemophiliacs have a well known medical history this is not necessarily the case with blood transfusion cases. There could be difficulty in establishing that transfusion and not some other activity is the cause of HIV infection. Some might feel aggrieved if unable to prove their case.

6. Others claim to be deserving

If an exception were to be made for the blood transfusion recipients, there would be many others who would think that they too were deserving; (eg recipients of skin grafts or organ transplants). We could be heading in a piecemeal fashion towards a general scheme of "no fault" compensation which we believe would be unworkable and unfair.

7. No fault compensation

In general the Government does not accept the case for no fault compensation for medical accidents.

We believe that a general scheme of no fault compensation would be unworkable and unfair. For instance, it would be unfair between those disabled as a result of medical accidents and those disabled through natural causes.

There has been a clear, and recent, Parliamentary decision not to introduce no-fault compensation for medical accidents. There are measures already underway which will improve procedures for those who do take legal action and this Department is committed to giving further consideration to improvements both in the current arrangements for dealing with claims of medical negligence and in improving our knowledge of the issues, and numbers, involved. *call in light of debate & discussion of House*

8. Scottish blood transfusion recipients

I understand that 12 people in Scotland are reported as being HIV antibody positive as a result of blood/blood product transfusions. 4 of these have commenced court proceedings seeking compensation.

9. Compensation abroad

We have already made a very substantial provision for haemophiliacs. Although some countries have decided to make provision which includes infected blood transfusion recipients, other countries have made no provision at all for any of those infected with HIV as a result of medical treatment. Countries differ in their approach to social benefits, health care and other matters.

10. Safety of blood supply

The safety of the blood supply is maintained in two ways. Firstly leaflets have been issued since 1983 to blood donors which describe those people who must not give blood.

Secondly, as soon as properly evaluated HIV antibody screening tests were available they were introduced. Since October 1985 every single donation has also been screened.

[Ultimately there is no absolute guarantee and the clinician has to take this into account when deciding to advise on transfusion.]

*usual turnover 5 1/2 days
lasts 35 days max
Can freeze fresh plasma, which
lasts a year (max)*

11. Vaccine damage payments

The scheme does not provide a precedent for special help for recipients of infected blood transfusion. Vaccines are given to the healthy as a matter of public policy. Each individual vaccination does not only benefit that particular person but also helps protect the public at large.

The Vaccine Damage Payments Act recognises that a finite risk is incurred and provides financial assistance in respect of the benefit for public health as opposed to the individual. On the other hand recipients of blood transfusion are given this treatment for their own benefit in the normal course of medical care for their disorder.

12. Haemophiliac settlement

This is a complex settlement and, understandably, both sides want to be satisfied that it is right before it can be concluded.

The Government wants to see the settlement concluded as soon as possible. With goodwill on both sides, the final details can be sorted out within the next week or two.