

# England Infected Blood Support Scheme Appeals Panel

Skipton House, 80 London Road, London, SE1 6LH

nhsbsa.eibss@nhs.net

**Private and Confidential**  
**For addressee only**

Mr A J Bragg

GRO-C

North Yorkshire

GRO-C

Dear Mr Bragg

## **Re England Infected Blood Support Scheme (EIBSS) Appeal – Ref PB9032**

The EIBSS Appeals Panel considered your appeal against the Scheme's refusal to make you a first stage payment on the 31<sup>st</sup> July 2018. I know that you will be disappointed to hear that the Panel has refused your appeal. To help you understand our decision, I would like to explain to you the role and powers of the Appeals Panel.

The NHS Business Services Authority became appointed as administrator of the England Infected Blood Support Scheme on 1 November 2017, replacing the previous payment schemes (including the Skipton Fund). The role of the Appeals Panel is to determine appeals by those refused *ex gratia* payments by the Scheme. Its membership comprises an expert in each of the fields of liver disease, blood transfusion services and general medical practice together with a legally qualified Chair.

The criteria for payments are as follows: for a Stage One payment the person concerned must have been infected with Hepatitis C virus either directly through treatment with NHS blood, blood products or tissue before 1 September 1991, or indirectly by contact with such a person. For a Stage Two payment the person concerned must have gone on to suffer cirrhosis or primary liver cancer or developed B-cell non-Hodgkins lymphoma. Alternatively they must have undergone a liver transplant or be on the waiting list to receive one or have a condition known as type 2 or 3 cryoglobulinemia accompanied by membranoproliferative glomerulonephritis (MPGN).

The Appeals Panel has no power to hold oral hearings but instead conducts a thorough review of all materials before it, including those upon which the Skipton Fund made the decision to refuse payment. The Panel also considers all material submitted by you or on your behalf for the purpose of the appeal. It also takes into account the expert knowledge and experience of its professional members.

The Panel cannot vary the terms of entitlement to payment established by the terms of the Scheme itself, for example by allowing payments for infection caused by treatment given after 1 September 1991, or by allowing payments where the infection has cleared spontaneously within six months.

In order to succeed on an appeal the appellant must satisfy the Panel that it is probable, that is more likely than not, that the infection with Hepatitis C was indeed caused either

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directly through treatment with NHS blood, blood products or tissue before 1 September 1991 or indirectly by contact with a person who was so infected. In order to be satisfied that this is the case the Panel will pay particular attention to the treatment records of the person concerned.

At our meeting on the 31<sup>st</sup> July 2018 the Panel reviewed the entire file of papers held by the Skipton Fund/Scheme in connection with your application and all the additional information supplied for the purpose of the appeal including your letter of 20 March 2018, your email of 10 July 2018 attaching the letter of 26 April 2018 from Haukeland University Hospital and the copy medical records from the Royal Liverpool and Broadgreen University Hospitals NHS Trust. The Panel has also considered your email of 19 July 2018.

The Panel noted that your appeal was based on a transfusion you received on returning home following a road traffic accident in 1986 in Norway. Unfortunately, due to the lack of supporting evidence including medical records confirming that you were treated with NHS blood or blood products prior to 1991 in England, the Panel were not satisfied that it was more probable than not that your Hepatitis C infection resulted from qualifying NHS treatment. Accordingly we regret that we must refuse your appeal.

If there is anything in this letter which is not clear to you, or you are uncertain whether any piece of information reached the Panel for consideration, please contact Nicholas Fish who will liaise with me to answer your queries. You may wish to take advice from solicitors or a Citizens Advice Bureau. Please note that the Scheme will not be responsible for any costs or expenses that you incur in doing so.

If, after receiving replies to any such queries or taking such advice, you consider that we have made a mistake of law or in the manner in which we have dealt with your appeal, you should take legal advice about the possibility of asking the High Court to conduct a Judicial Review of our decision. You should do this as soon as possible (since strict time limits are applied to such applications). The High Court will not, however, generally review the merits of the appeal but rather the process by which it was conducted.

Yours sincerely

**Nicola Richardson**  
**Chair of Appeal Panel**