

Eight families whose relatives contracted the fatal Creutzfeldt-Jakob disease after being treated with human growth hormone in childhood won the right last week to compensation from the UK government likely to total more than £1m (\$1.6m).

The victory brings to 20 the number of growth hormone CJD cases in which the government will have to pay compensation as a result of court rulings. Among the eight families whose claims were successful last week are the widow and three children of **GRO-A** an orthopaedic surgeon who died of CJD in 1997 aged 37.

Mr Justice Morland, the judge handling the litigation, ruled in 1996 that the Medical Research Council (MRC), which ran the growth hormone programme from 1959, was negligent from 1 July 1977 in failing to pass on warnings from scientists that the hormone could be contaminated by the infective agent for CJD. That ruling resulted in compensation in eight cases in which treatment had started after that date. Two other cases in which treatment finished before that date are ineligible for compensation.

So far, 27 recipients of growth hormone out of 1900 have con-

tracted CJD and 25 have died, but the incubation period is thought to be up to 30 years. The judge held that clinicians would not have enrolled new patients in the treatment programme after 1 July 1977 had they been warned of the risk. But he was "not satisfied" that doctors would have stopped treatment for existing patients.

The judgment forced the families of patients whose treatment straddled the date to go to the Appeal Court to seek a new trial to adduce evidence that clinicians would have stopped all treatment. Last week's judgment followed that trial, at which four clinicians involved in the treatment programme gave evidence that they would have discontinued it for all patients.

The MRC was warned by a leading virologist, Professor Peter Wildy, in 1977: "We are in the uncomfortable position of suspecting the worst but not knowing how bad the worst is. Any clinician who uses growth hormone must be made aware of the gruesome possibilities and their imponderable probabilities. It is the clinician who must take ultimate responsibility for his patients, but it is up to the steering committee to ensure that he understands the true position."

But no warning was passed on to doctors. Although the scientific steering committee overseeing the manufacture of growth hormone was told, the clinicians' committee was "deliberately kept in the dark," the judge said in his first judgment.

In his latest judgment, Mr Justice Morland said that having heard the four professors' evidence, and particularly their cross examination, he was now satisfied that all treatment would have stopped, except for hypoglycaemic patients. The key was the status and reputation of Professor James Tanner of Great Ormond Street children's hospital, who said that if the programme had been suspended for new patients he would not have felt justified in continuing it for existing patients. The judge was

"satisfied that his opinion would have carried enormous weight."

He accepted evidence from Charles Brook, professor of paediatric endocrinology at University College London Hospitals and Great Ormond Street, that "peer pressure would have been such that no clinician would have stood out alone and continued treatment."

The second trial started with 17 cases, but the government conceded liability at an early stage in four. Apart from the eight further successful cases, there are another five in which the outcome is uncertain because medical records are too sparse to show treatment dates clearly. The families' lawyers will meet Department of Health officials next month to try to quantify compensation. □

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## Families win right to compensation over CJD

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