

## **The Skipton Fund**

### **Appealing against a refusal decision**

The following notes are for your guidance to help you provide the information that the Appeals Panel is likely to need in order to fully consider your appeal. No guarantee can be made of the outcome of any appeal. The Appeals Panel considers each case individually.

Please note that the Appeals Panel is required to make its decisions on the balance of probabilities. That is to say that it has to conclude that, in order to receive payment from the Skipton Fund, exposure to hepatitis C is more likely than not to have resulted from an eligible exposure. An eligible exposure is exposure to blood, blood products or tissue through NHS treatment with one or more of those products that occurred before 1st September 1991. In other words, it has to have been a *probability* and not just a *possibility* that your infection with hepatitis C occurred in this way.

### **Missing Records**

1. The most common reason for an initial refusal by the Fund is the absence of documented records of eligible exposure to NHS blood, plasma or tissue products. This may be because:
  - a. the records exist but do not mention a transfusion or other exposure
  - b. the records are lost or destroyed
2. Make every effort to obtain and produce for the Panel as much as you can in the way of hospital records (inpatient, outpatient and operation notes, letters and discharge summaries to you or your GP). Write to the hospitals concerned to request these, giving full details of the dates and the procedures.
3. Ask your GP to look back through your GP notes for letters and discharge summaries relating to the alleged exposure.
4. If the records are not available, obtain and produce a letter to that effect from the hospital records department and/or your GP.
5. Provide a personal statement for the Appeals Panel giving, in as much detail as you can, what operation, procedure, accident or illness led to the procedure involving blood, blood products or tissue, when it occurred and why, in your recollection, a transfusion (or other exposure) was needed or occurred.
6. If you have any witnesses to the alleged exposure (for example relatives or hospital visitors) you should get a statement from them and include it with your appeal.
7. With any written evidence of the treatment you believe led to your infection with hepatitis C, please provide a photograph of your operation or injury scar.
8. In the absence of complete records the Panel will make a judgement on the likelihood of your exposure to hepatitis C given the type of treatment, the circumstances and the outcome that you describe.

## **Intravenous Drug Use (IVDU)**

1. Applicants who have had a history of exposure to recreational intravenous drug use (such as heroin) are unlikely to succeed in their appeal. This is because expert advice shows that the chance of getting hepatitis C from even the smallest degree of IVDU is many times greater than the risk of getting hepatitis C from a transfusion. However, because the panel considers each case individually, you should document all your intravenous drug use in as much detail as you can.
2. The Panel will make a judgement on the relative likelihood of your having obtained hepatitis C from intravenous drug usage or from NHS treatment.

## **Other Risk Factors**

1. In order to assist it with its decision, the Panel asks you to list any other factors that may have contributed to the risk of infection with hepatitis C. These include:
  - a. tattoos
  - b. other recreational drug use including snorting cocaine
  - c. sexual activity involving the exchange of bodily fluids with a person infected with hepatitis C

## **Other Reasons for Refusal**

1. Other reasons for refusal may be:
  - a. the records relate to dates later than the first of September 1991
  - b. the records relate to treatment with intravenous fluids that are not blood or blood products
  - c. the records relate to treatment with blood, blood products or tissue not provided by the NHS (e.g. abroad).
  - d. there are discrepancies in your application form
  - e. the hepatitis C virus was cleared spontaneously in the acute phase of the disease (Natural Clearance)
2. The Appeals Panel can only consider exposure to blood, blood products or tissue through NHS treatment with one or more of those products that occurred before 1st September 1991. You must do the best you can to make certain that the details of the alleged exposure(s) comply with these requirements.
3. Fluid replacement (saline, glucose etc), artificial plasma expanders and intramuscular anti-D immunisation (in pregnancy and miscarriage/abortion) are *not* associated with hepatitis C infection and will not be considered by the Panel as probable causes of your infection. Likewise the Panel is not able to consider infection caused by incidents at work (for example needlestick injuries) in hospital staff. These fall outside the scheme and you will need to take advice from a solicitor or Trades Union in the normal way.



4. Obtain a copy of your original application form and make sure that you agree with what your consultant, GP or supervising doctor has written. If you believe that the application form is incomplete or incorrect, discuss this with the signing doctor and obtain his or her signed and dated correction of the form and resubmit this with your appeal. Alternatively provide the Panel with a statement of why you believe the form was incomplete or incorrect.
5. Natural Clearers - The PCR test detects the presence of hepatitis C virus in the human body. In a minority (15-30%) of people infected with hepatitis C, the body's immune system successfully fights the virus and clears it from the body with no long-term ill effects. In these cases the PCR becomes negative and the disease does not progress to a chronic (long term) phase. Patients in whom this occurs are termed "natural clearers". If this happens, in nearly all cases it is within six months of the infection (the acute phase). Natural clearers whose PCR becomes negative within six months of infection with hepatitis C are not eligible for payment from the Skipton Fund. If a natural clearer makes a claim from the fund they will need to show that the PCR test was positive, or that other signs of chronic infection existed, more than six months after eligible exposure to hepatitis C. If the point of PCR conversion from positive to negative cannot be pinpointed (because, for example, a PCR test was not done early enough or frequently enough) then the Appeals Panel will make a judgement on whether the PCR was more likely than not to have remained positive for more than six months. In the absence of other evidence of chronic infection, for example a positive liver biopsy or abnormal liver function tests, the panel is likely to conclude that it was not, since the clearance rate of hepatitis C infection after six months is rare (thought to be less than 1% per annum) as opposed to the much greater likelihood of clearance within 6 months (15-30%).

**Please note that the Appeals Panel does not have any power to consider cases that fall outside the Skipton Fund scheme.**