

NON-PRESCRIPTION INTRAVENOUS DRUG USE PROTOCOL

1. This Protocol applies where:
 - a. there is an admission that the HCV Infected Class Member used non-prescription intravenous drugs;
 - b. there is no statutory declaration as required under the Settlement Agreement, that the HCV Infected Class Member has never used non-prescription intravenous drugs; or
 - c. despite receipt of a statutory declaration, there is other evidence that the HCV Infected Class Member has used non-prescription intravenous drugs.
2. The Administrator shall conduct a Traceback under the Traceback Protocol. If the result of a Traceback investigation is such that the Traceback Protocol requires the Administrator to reject the claim, the Administrator shall reject the claim.
3. If a Traceback is not required to be conducted under the Traceback Protocol or the claim is not rejected under the Traceback Protocol, the Administrator shall:
 - a. obtain such additional information and records pursuant to section 2.03 of the Settlement Agreement as the Administrator in its complete discretion considers necessary to inform its decision; and
 - b. obtain the opinion of a medical specialist experienced in treating and diagnosing HCV as to whether the HCV infection and the disease history of the HCV Infected Class Member is more consistent with infection at the time of the receipt of Blood or the secondary infection or with infection at the time of the non-prescription intravenous drug use as indicated by the totality of the medical evidence.
4. The Administrator shall weigh the totality of evidence obtained including the evidence obtained from the additional investigations required by the provisions of this Protocol and determine whether, on a balance of probabilities, the HCV Infected Class Member meets the eligibility criteria of the Settlement Agreement. The burden to prove eligibility is on the claimant. The Administrator shall assist the claimant by advising what types of evidence will be useful in meeting the burden of proof in accordance with this Protocol.
5. In weighing the evidence in accordance with the provisions of this Protocol, the Administrator must be satisfied that the body of evidence is sufficiently complete in all of the circumstances of the particular case to permit it to make a decision. If the Administrator is not satisfied that the body of evidence is sufficiently complete in all of the circumstances of the particular case to permit it to make a decision, the Administrator shall reject the claim.

6. Examples of the evidence the Administrator may require to inform its decision include the following:
 - a. an independent medical examination with a physician of the Administrator's choice, to obtain opinion evidence on any medical issues which the Administrator believes will assist in making its decision;
 - b. the medical and clinical records from any or all hospitalizations and treating physicians for the HCV Infected Class Member for such time frame as the Administrator considers relevant;
 - c. the donation history, transmissible disease information, deferral codes or the results of any lookbacks pertaining to blood donated by the HCV Infected Class Member available from Canadian Blood Services and/or Hema-Quebec;
 - d. an affidavit from the HCV Infected Class Member and a person who knew the HCV Infected Class Member at the time he/she used non-prescription intravenous drugs describing:
 - i. whether the drug paraphernalia used was sterile;
 - ii. whether the HCV Infected Class Member shared needles; and
 - iii. the best estimate of the number occasions and time period during which the HCV Infected Class Member used non-prescription intravenous drugs;
 - e. a consent to conduct a criminal records search of HCV Infected Class Member; and
 - f. an affidavit or interview of any person the Administrator believes may have knowledge about the non-prescription intravenous drug use or disease history of the HCV Infected Class Member.

7. Although none of the following factors may prove conclusive in any individual case because the Administrator must consider the totality of the evidence, the following factors are examples of evidence that would be supportive of a finding that the HCV Infected Class Member is eligible for compensation under the Settlement Agreement:
 - a. identification of a Class Period Blood transfusion from an HCV antibody positive donor;
 - b. the HCV Infected Class Member was under the age of 18 at the time of the receipt of Blood;
 - c. reasonably reliable evidence establishes that the non-prescription intravenous drug use took place after September 28, 1998;

- d. an HCV disease history which is more consistent with the timing of:
 - i. the receipt of Blood for the Hemophiliac;
 - ii. a Blood transfusion(s) for which an HCV antibody positive donor has been located or for which the status of the donor remains unknown; or
 - iii. the alleged secondary infection;than with the time of non-prescription intravenous drug use;
 - e. reasonably reliable evidence that the non-prescription intravenous drug use history is subsequent to the receipt of Blood or the date of alleged secondary infection;
 - f. reasonably reliable evidence that the non-prescription intravenous drug use was limited to a single occasion and was done with sterile equipment which was not shared; and
 - g. no medical history of unspecified Hepatitis, Hepatitis B or Non-A, Non-B Hepatitis prior to the date of the receipt of Blood or the date of alleged secondary infection.
8. Although none of the following factors may prove conclusive in any individual case because the Administrator must consider the totality of the evidence, the following are examples of evidence that would not be supportive of a finding that the HCV Infected Class Member is eligible for compensation under the Settlement Agreement:
- a. failure to identify a Blood transfusion from an HCV antibody positive donor;
 - b. an HCV disease history which is more consistent with infection at the time of non-prescription intravenous drug use than with the timing of:
 - i. the receipt of Blood for the Hemophiliac;
 - ii. a Blood transfusion(s) for which an HCV antibody positive donor has been located or for which the status of the donor remains unknown; or
 - iii. the alleged secondary infection;
 - c. reasonably reliable evidence that the non-prescription intravenous drug use took place on more than one occasion or was done with non-sterile or shared equipment;
 - d. a medical history of unspecified Hepatitis, Hepatitis B or Non-A Non-B Hepatitis prior to the date of the receipt of Blood or the date of alleged secondary infection;

- e. a refusal to permit the Administrator to interview any person the Administrator believes may have knowledge about the non-prescription intravenous drug use or disease history of the HCV Infected Class Member;
- f. a CBS or Hema-Quebec donor file which indicates that the HCV Infected Class Member:
 - i. tested positive for the antibodies to Hepatitis B; or;
 - ii. had donated blood prior to the receipt of Blood and the blood donations or recipients of the blood donations have subsequently tested positive for HCV antibodies; and
- g. the file is in any other way consistent with infection with HCV by non-prescription intravenous drug use prior to the receipt of Blood, or the date of alleged secondary infection.