

**IN THE MATTER OF AN APPEAL TO REVIEW THE DECISION OF THE ADMINISTRATOR CONCERNING
CLAIM NO. 710873 UNDER THE HCV LATE CLAIMS BENEFIT PLAN AND UNDER THE HCV 1986 - 1990
SETTLEMENT AGREEMENT AND THE TRANSFUSED HCV PLAN**

Vincent R. K. Orchard, Q.C., C. Arb. / Arbitrator and Referee for the Province of (Province)

Decision

Claim ID No: 710873

I. BACKGROUND

1. This is an appeal for review of a decision of the Administrator set out in correspondence dated July 12, 2021, denying a claim for compensation under the HCV Late Claims Benefit Plan.
2. The Claim and the Appeal were brought pursuant to the HCV Transfused Plan (the "Plan") adopted under the HCV 1986-1990 Settlement Agreement (the "Agreement") confirmed by court orders following settlement of class action litigation.
3. This Appeal comes before me as a court appointed Arbitrator/Referee further to the Agreement and relevant court orders. My authority includes claims involving both (Province) and (Province)
4. The Claim was denied based on failure to meet a fundamental threshold evidentiary requirement under Article 3.01 of the Plan requiring proof, as therein defined, that the Claimant, the Primarily Infected Person, received a Blood transfusion, as further defined, during the Class Period January 1, 1986 to July 1, 1990. The Claimant requested review of the Administrator's denial of the Claim by an Arbitrator. In the Appeal document dated August 1, 2021, the Claimant indicated he was still looking for (Province) Public Records to support his assertion that he had a Blood transfusion in (Province) during the Class Period.
5. During the conduct of this Appeal, I issued a Summons dated October 21, 2021, to a specific (Province) hospital and (Province) Health Services in order to assist the Claimant in his search for relevant records. Coincidentally, there were further developments from a Traceback on blood units received by the Claimant in a broader Class Period investigation beyond that initially indicated.

II. DISCUSSION

6. A turning point in this Appeal occurred on or about May 20, 2022, when Fund Counsel advised the Claimant and the Arbitrator that the Traceback on the blood units received by the Claimant included several inconclusive results although there were no positive units. Fund Counsel advised that under the Plan this gives the Claimant a positive Traceback result which means it is accepted that the Claimant was infected by a Blood transfusion during the Class Period. The Administrator

accepts the Claimant has satisfied the initial prerequisite under Article 3.01 upon which the claim was denied. However, there are other prerequisites under Article 3.01 which are yet to be established. Therefore the Claim must go back to the Administrator for further investigation and evaluation.

III. CONCLUSION

7. I conclude that the Appeal is allowed, the Administrator's decision dated July 12, 2021, based on the stated reasons for the decision, is set aside. I also order the Claim to be remitted back to the Administrator for further determination.

Dated at (City), (Province), this 3rd day of June, 2021.



Vincent R.K. Orchard, Q.C., C. Arb.
Arbitrator / Referee