

IN THE MATTER OF an appeal filed  
pursuant to the *Rules for Appeals* under  
the *Pre-1986/Post-1990 Hepatitis C  
Settlement Agreement* and its *Protocols*

CLAIM FILE: 08-13620

**REASONS FOR DECISION**

**INTRODUCTION**

[1] The Claimant has appealed the amount of compensation awarded to him in a decision of the Administrator dated November 3, 2008, in which his claim under the *Pre-1986/Post-1990 Hepatitis C Settlement Agreement* (“*Settlement Agreement*”) was approved on the basis that he was a Family Member of a deceased HCV Infected Class Member.

**FACTS**

[2] On October 2, 2008, the Claimant filed a claim for compensation under the *Settlement Agreement* both as a Family Member, specifically as a Child over 21 of a deceased HCV Infected Class Member, and as a Dependant to whom the deceased HCV Infected Class Member was providing support or was under a legal obligation to provide support on the date of her death.

**DECISION OF THE ADMINISTRATOR AND REQUEST FOR REVIEW**

[3] In a decision dated November 3, 2008, the Administrator approved the claim for compensation in the amount of \$4,352.00, together with \$88.00 for indexation. The total amount of compensation approved was \$4,440.00. In its decision, the Administrator made no reference to the fact that the Claimant had also advanced a claim for compensation as a Dependant.

[4] On December 10, 2008, the Claimant filed a Request for Review and specified his reasons. He had previously filed a letter on November 18, 2008, in which he indicated his intention to appeal the decision of the Administrator.

### **ISSUE**

[5] The issue to be determined is whether the Administrator erred by failing to consider the Claimant's claim for compensation as a Dependant of the deceased HCV Infected Class Member.

### **ANALYSIS**

[6] A review of the "Form A- Family Member and/or Dependant Claim Application" reveals that the Claimant made two separate types of claim in the part entitled "Section E- Type of Claim": one as a Family Member and one as a Dependant. However, in its Approval Letter dated November 3, 2008, the Administrator dealt solely with the claim for compensation as a Family Member; no mention was made of the claim for compensation as a Dependant.

[7] Where more than one type of claim is made, the Administrator has an obligation to assess the evidence tendered on each claim and to prepare reasons justifying its decision. The failure of the Administrator to consider whether the Claimant has met the requirements for compensation as a Dependant in accordance with the terms of the *Settlement Agreement* constitutes an error.

### **CONCLUSION**

[15] The appeal is allowed. The matter is remitted to the Administrator with the Direction that a decision shall be made on the Claimant's claim for compensation as a

Dependant and reasons for decision shall be issued justifying the decision.

"D. McGillis"

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The Honourable D. McGillis, Q.C.  
Appeals Officer

DATED February 25, 2009

TO: Claimant  
Fund Counsel  
Administrator