



June 8, 2017

The Honourable Jane Philpott, P.C., M.P.
Minister of Health
Health Canada
70 Columbine Driveway
Ottawa, ON K1A0K9

Dear Minister Philpott,

On behalf of the House of Commons Standing Committee on Health, I would like to thank you for your response to my letter dated 1 March 2017 in relation to the 2015 Thalidomide Survivors Contribution Program (TSCP). As you know, our committee strongly supports ensuring that all survivors are recognized and compensated, and we appreciate your demonstrated commitment to this issue.

Previous Committee Correspondence on the TSCP

In your response, you provided information on both the 1991 Extraordinary Assistance Plan (EAP) and the 2015 TSCP for individuals who were born with disabilities as a result of thalidomide use by their mothers during pregnancy. You indicated that the eligibility criteria to qualify for the TSCP were the same criteria used for the EAP, namely:

1. verifiable information of the receipt of a settlement from the drug company;
2. documentary proof (for example, medical or pharmacy records) of the maternal use of thalidomide (brand names Kevadon or Talimol) in Canada during the first trimester of pregnancy; or
3. listing on an existing government registry of thalidomide victims.

You stated that as of the application deadline, 193 individuals had submitted applications to Crawford & Company (Canada) Inc., the third-party administrator of the TSCP, and that as of 27 March 2017, 25 new survivors had been confirmed. You also noted that

A thorough review of each application and supporting information was completed by a medical assessor. All applications were subjected to a secondary review to ensure all of the information

provided to Crawford was fully taken into consideration, before coming to an evidence-based decision. Crawford consulted legal experts where applicable.

House of Commons Standing Committee on Health Meetings on the TSCP

After reviewing your letter, the committee proceeded to hold two meetings with witnesses on the TSCP. On 9 May 2017, Michael Mooney and Brenda Weiss from Crawford & Company (Canada) Inc. appeared with Cindy Moriarty and Theresa Bagnall from Health Canada. Also appearing on that day were Dr. Martin Johnson, former Director of the United Kingdom Thalidomide Trust and Dr. Neil Vargesson from the School of Medicine, Medical Sciences and Nutrition at the University of Aberdeen. On 11 May 2017, the committee heard from Terry Bolton, a founding member of Canada's Still Forgotten Thalidomide Survivors, and Douglas Levesque. Both Mr. Bolton and Mr. Levesque had been deemed to not meet the TSCP eligibility criteria. Dr. Ivor Ralph Edwards, Professor in Medicine, who convened and chaired a 2014 World Health Organization meeting of experts on thalidomide embryopathy, also appeared on that day.

The committee heard that Canada's approach to determining eligibility differs from that employed in other jurisdictions. Ms. Moriarty, who is responsible for oversight of the TSCP, told the committee that "[i]n the absence of any definitive scientific test, it is difficult to distinguish between conditions caused by thalidomide and those caused by other factors. It was, therefore, important to ensure the [TSCP] program was founded on objective and verifiable criteria" (9 May 2017). In contrast, Dr. Johnson explained that

[p]robably 50% of the original cases in the 1968 and 1973 settlements [in the U.K.], where thalidomide exposure was agreed a virtual certainty, had no documentary evidence. This was because of the very widespread and casual distribution of the drug...

From the outset, it was known that this standard of evidence could not be insisted on in every case (9 May 2017).

Dr. Johnson summarized the application/screening process used by the UK Thalidomide Trust, which required documentary proof of thalidomide embryopathy only if the individual in question was born after thalidomide had been withdrawn from the market; if there was no record of thalidomide having been distributed in a particular area in which a claim arose; or for individuals with atypical conditions. He noted that "the standard of proof required for a decision was on the balance of probabilities."

Witnesses focused on the need for a medical examination in addition to existing criteria. The committee heard compelling testimony from Mr. Bolton and Mr. Levesque about their frustration with the eligibility criteria that required them to produce medical records that had been destroyed, and how their lives have been affected by disabilities that they attribute to thalidomide exposure (11 May 2017). Mr. Bolton implored the committee to "see to it that the proper qualified professionals examine our medical records that we have managed to obtain and physically interview each one of us so that they can make an educated decision as to whether we qualify for the compensation package that we justly deserve." Dr. Edwards

reinforced the importance of a medical examination, stating: “I don’t know how you can reject someone without a physical examination” (11 May 2017). In the 9 May 2017 meeting, Dr. Vargesson had noted that “[i]f you see a combination of [certain] conditions, you would say there’s a possibility, yes, but you would need to see a clinician to get a proper diagnosis.”

In addition, Mr. Levesque advised the committee that to be eligible for the 1991 EAP, “a mother’s statement, preferably sworn, that she took thalidomide at the relevant time” would have met the criteria, and that he included that in his 2015 TSCP application but was told it was not sufficient proof.

Committee Recommendations

Out of a desire to move forward on this issue, and recognizing the importance of sharing the stories presented to us, the committee recommends that you review and reconsider the criteria used to determine an individual’s eligibility for the TSCP. We believe that, in establishing criteria, the government should err on the side of compassion, and adopt a fair process that ensures that no one who was born with disabilities caused by thalidomide exposure is denied access to the TSCP. We recommend that claimants who had applied for the TSCP and were rejected, or individuals who did not apply for the TSCP because they lacked the required documentation, be clinically evaluated to determine, on a balance of probabilities, the likelihood of thalidomide exposure in accordance with international best practices and with a particular focus on the model implemented by the United Kingdom. If the individual receives a positive diagnosis in this regard, we recommend that they may qualify for compensation.

We thank you in advance for your consideration of these recommendations, and look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Casey". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Mr. Bill Casey, Member of Parliament
Chair of the House of Commons Standing Committee on Health