

Media release

PHARMAC pleased with court ruling

PHARMAC is pleased with the outcome of a High Court hearing in relation to women seeking funded access to breast cancer drug Herceptin.

Acting CEO Matthew Brougham says the availability of a judicial review mechanism is an important consideration in the policy and decision-making of public bodies like PHARMAC.

“We need to ensure that the processes we have and the way they are applied are of the highest standard and that they stand up to scrutiny. We are pleased with the outcome of this interim orders hearing,” says Matthew Brougham.

“Further questions will be dealt with in the more substantive hearing which will take place.”

The group of eight women were seeking funding for Herceptin through the Cancer Exceptional Circumstances scheme, which is administered by PHARMAC, and had asked the court to make interim orders regarding their entitlement under this scheme. All the women had had their applications for funding under the Cancer Exceptional Circumstances scheme declined.

The High Court decision released today turned down the application for interim relief, says acting chief executive Matthew Brougham.

“We sympathise with the circumstances of the women who brought this case and respect their right to seek judicial review of the decision. Coping with breast cancer and self-funding a high cost drug like Herceptin brings tremendous burdens, and we acknowledge those difficult circumstances. While we acknowledge their situation, we agree with Justice McKenzie that decisions around the funding of medicines cannot be made on the basis of sympathy,” says Matthew Brougham.”

A further hearing will now be held regarding the wider claim made by the eight women. This relates to PHARMAC’s decision to subsidise 9 weeks treatment of Herceptin.

ENDS

About Exceptional Circumstances

The Exceptional Circumstances schemes provide people with access to medicines that are not otherwise publicly funded. There are three Exceptional Circumstances programmes managed by PHARMAC – Community, Hospital and Cancer Exceptional Circumstances.

Community Exceptional Circumstances

The Community scheme (CEC) funds medicines for people with rare conditions or who have an unusual set of personal circumstances that mean funded medicines are unsuitable for them. All applications are considered by a panel of doctors, and funding is drawn from the overall pharmaceutical budget. The budget for Community EC is \$3 million.

Cancer Exceptional Circumstances

The cancer scheme (CaEC) provides access to medicines to treat cancer, that aren't usually funded by DHB hospitals. Applications are made by hospital specialists and there are six criteria that need to be met. These criteria include that the application has been peer reviewed, that the DHB has agreed to fund it, that the condition is unusual and that PHARMAC has not considered the medicine for funding.

Applications are considered by PHARMAC and, if necessary, referred to a panel of doctors. If the application is successful, PHARMAC or the Panel can recommend that the DHB fund it.

Hospital Exceptional Circumstances

The Hospital Exceptional Circumstances (HEC) scheme enables DHB hospitals to fund medicines in the community that are not funded through the Pharmaceutical Schedule. The sole criterion for approval under HEC is that funding the medicine is more cost effective for the DHB hospital than the most likely alternative intervention or outcome. This enables patients to use certain medicines in their own homes rather than remaining in hospital.

About Herceptin funding

Herceptin (trastuzumab) is a treatment for HER2-positive breast cancer, delivered as an infusion in hospitals. It has been publicly funded in New Zealand for advanced cases of the disease since 2001.

In early 2006 Herceptin gained provisional approval (from Medsafe) as a treatment for early HER2-positive breast cancer. PHARMAC examined an application to fund a 12-month regimen of Herceptin, and decided, in July 2006, not to approve it at that time.

Following that decision, PHARMAC sought advice and undertook further analysis on the possibility of funding a shorter 9-week course in combination with a taxane (another chemotherapy drug).

PHARMAC and District Health Boards approved funding for the 9-week course in April 2007. Funding became available from 1 July 2007.

PHARMAC estimates that up to 400 women per year may be eligible for treatment with Herceptin.