2nd Floor 2 Redman Place

London E20 1JQ

United Kingdom

+44 (0)300 323 0140

Sent by e-mail only: XXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX

XXXXXXXXXX and XXXXXXXXXX

Myeloma UK and the UK Myeloma Society 22 Logie Mill

Beaverbank Business Park Edinburgh

EH7 4HG

Friday 2 August 2024

Dear XXXXXXXXXX and XXXXXXXXXX

# Re: Final Draft Guidance — Isatuximab with Pomalidomide and Dexamethasone for treating relapsed and refractory multiple myeloma [ID4067]

Thank you for your letter of 24 July 2024 responding to my initial scrutiny views. This is my final decision on initial scrutiny.

I assess each of your points in turn.

***Ground 1(a): In making the assessment that preceded the recommendation, NICE has failed to act fairly***

# Appeal point 1(a).1: NICE has failed to act fairly by its inconsistent evaluation of the effectiveness of daratumumab.

Having considered the additional arguments made in your letter of 24 July 2024, I remain of the view that this appeal point should not proceed to an oral hearing. I explained in my initial scrutiny letter that I was minded to refer your point 2.1, which covers this point under ground 2 (reasonableness), but that a difference of approach between appraisals does not in itself amount to arguable unfairness. I remain of that view.

Your letter of 24 July 2024 goes further in that you explain that you consider the Committee's approach was not only inconsistent but departed from NICE's published processes in a way that was procedurally unfair under ground 1. You refer to sections 4.6.18 and 4.6.25 of the Manual, which refer to the need to "assess" or "check" clinical plausibility when considering modelling. You say that:

"In the light of this guidance, a decision to change the basis of the modelling of the effectiveness and value of daratumumab monotherapy between TA783 and ID4067 required careful and specific consideration by the Committee and the EAG of the model used in TA783 and whether there was any reason – particularly in the absence of new data – to consider it no longer to be clinically plausible."



In my view the Committee did give specific and careful consideration to the modelling, including with reference to TA783, the opinion of the EAG and the objective to use the "best fitting distribution" (see paragraph 3.11 of the FDG). I can see no arguable case that it fell short of the requirements of the Manual as to what the Committee considered or the manner in which it did so, or in any other way. I therefore confirm this point will not be referred to the appeal panel.

***Ground 2: the recommendation is unreasonable in the light of the evidence submitted to NICE***

# Appeal point 2.2: NICE’s decision to appraise this treatment without considering the significant impact the 2022 update of the NICE methods and processes had on this appraisal is unreasonable.

Having considered the additional arguments made in your letter of 24 July 2024, I remain of the view that this appeal point should not proceed to an oral hearing.

I understand your argument to be that it was unreasonable for the Committee to apply standard methodology in circumstances where the topic could not achieve cost effectiveness at zero price, i.e. where "the outcome …was a foregone conclusion" and the topic "could not 'win' even if it were offered free".

As a general point, there are several scenarios under which clinically effective technologies may be found not to be cost-effective even if they are zero priced. There may be costs associated with delivering the technology which remain even when the price is reduced to zero and these costs alone may outweigh the health benefits achieved. Even in the situation where a clinically effective technology can be acquired and delivered for zero cost, there are scenarios in which that technology may fail to demonstrate cost-effectiveness because it increases other aspects of resource use.

I see no reason that NICE must, as a matter of *reasonableness*, adjust its usual processes to allow for a positive recommendation because a treatment is not cost effective at zero price. In my view that is not enough to show that the Committee's approach, which appears to me to demonstrate a logical consideration of the evidence as explained at paragraph 3.17 of the FDG, was arguably unreasonable in the sense that it was obviously and unarguably wrong, illogical, or 'does not add up'.

NICE appraisals aim to result in recommendations on what treatments the NHS should provide, given its financial constraints, in a robust, predictable and evidence-based way. They relate to the allocation of limited health resources between competing priorities and across all patients (not just those with the condition relevant to a given topic) all of which will be deserving in their own right. As explained in NICE's Manual (para 6.3.1):

"Given the fixed budget of the NHS, the appropriate maximum acceptable ICER to be considered is that of the opportunity cost of programmes displaced by new, more costly technologies."

In other words, if NICE recommends a treatment, then the money spent on that treatment will not be available to spend on other treatments.

It is therefore critical that NICE follows fair and transparent procedures when making these difficult decisions, and that where there those procedures afford discretion to NICE's expert independent Committees they act reasonably in light of the evidence submitted to them. Your appeal has not persuaded me that it is arguable that NICE failed to do so in this case.

# Appeal point 2.4: NICE’s conclusion that “the same utility values should be used for each treatment arm” is unreasonable.

Having considered the additional arguments made in your letter of 24 July 2024, I agree that this is a valid appeal point. I anticipate the panel will wish to explore the evidence referred to in your appeal letters and the weight afforded to it with the Committee.

Conclusion

Therefore the valid appeal points are:

* 1(a).2
* 2.1;
* 2.3; and
* 2.4

NICE shares the valid appeal grounds of each appellant with the other appellants to assist with preparation for the hearing.

NICE will be in contact with you regarding the administration of the appeal, which will be held orally.

Yours sincerely

XXXXXXXXXX

Sharmila Nebhrajani OBE

Non-Executive Director & Chairman

National Institute for Health and Care Excellence