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12 May 2010

Dear [redacted]

Final Appraisal Determination: Azacitidine for the treatment of myelodysplastic syndromes, chronic myelomonocytic leukaemia and acute myeloid leukaemia

I acknowledge receipt of your two final letters dated 3 May 2010 in respect of the appeal against the Final Appraisal Determination for azacitidine in the treatment of myelodysplastic syndromes, chronic myelomonocytic leukaemia and acute myeloid leukaemia.

I regret that I am unable to accept the second modifications of your initial appeal letter. The only reason for my acceptance of your first modifications was the fact that my final scrutiny response would not have made sense without reference to its contents. The current appeals process guide is very clear on the accepted protocols in this matter and appellants are required to submit one appeal letter during the appeal period for my scrutiny and consideration of grounds of appeal. The appeal papers will therefore contain your first two appeal letters but not this final one. You will have ample opportunity to present all the agreed points to the Appeal Panel on the day of the hearing.

I acknowledge your response to my final scrutiny letter, this letter will appear in the appeal papers but the appeals process is that that my final scrutiny response contains my final decisions on the grounds for appeal.

I acknowledge your request for the legal paper in respect of the appeal grounds in relation to the Human Rights Act. I agree that your deadline of May 19th is entirely reasonable and I will ensure that you receive the paper by that date.

Finally I must apologise for the non-availability of the Final Appeal Determination in respect of sorafenib which I alluded to in my initial scrutiny letter. Under the normal course of events this would have been available to you. Unfortunately the General Election was called a week after my initial response. On that date NICE was then subjected to official government 'purdah' and is unable to release any final documentation in relation to all its Technological Appraisals. This means that the final Appeal Panel decision and the guidance in relation to sorafenib has been delayed and is currently not available. I apologise that I misled you, by now under our normal procedures both the relevant documents would have appeared on NICE's web page.

Yours sincerely

[redacted]

Appeal Committee Chair
National Institute for Health and Clinical Excellence