NICE National Institute for Health and Care Excellence

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Sent via email

[redacted]
Chief Operating Officer
James Whale Fund for Kidney Cancer

23 April 2013

Dear [redacted]

Final Appraisal Determination: axitinib for the treatment of advanced renal cell carcinoma after failure of prior systemic treatment

Thank you for lodging the James Whale Fund's appeal against the above Final Appraisal Determination.

Introduction

The Institute's appeal procedures provide for an initial scrutiny of points that an appellant wishes to raise, to confirm that they are at least arguably within the permitted grounds of appeal ("valid"). The permitted grounds of appeal are:

- Ground 1: The Institute has failed to act fairly
- Ground 2: The Institute has formulated guidance which cannot reasonably be justified in the light of the evidence submitted.
- Ground 3: The Institute has exceeded its powers.

This letter sets out my initial view of the points of appeal you have raised: principally whether they fall within any of the grounds of appeal, or whether further clarification is required of any point. Only if I am satisfied that your points contain the necessary information and arguably fall within any one of the grounds will your appeal be referred to the Appeal Panel.

You have the opportunity to comment on this letter in order to elaborate on or clarify any of the points raised before I make my final decision as to whether each appeal point should be referred on to the Appeal Panel.

I can confirm that there will be an oral hearing of the appeal.

Initial View

Ground 1

1.1 Uncertainty and ICERS

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A valid appeal point. As guidance, other appeal points concerning uncertainty have been received. Without wishing to discourage you from alleging discrimination if you wish, the argument around those other points seems likely to concentrate more on what is fair given the uncertainty in this analysis rather that (as I assume your discrimination argument would be) that kidney cancer patients are being less favourably treated than others.

As I agree your appeal point is valid it will be passed to an appeal panel for consideration. There will be an oral hearing.

Yours sincerely

[redacted]
Appeals Committee Chair
National Institute for Health and Care Excellence