

## V.A. Dept. agrees to evaluate HIV patients for transplants, but refuses to perform procedure

*Federal agency's discriminatory practice leaves vets in limbo*

by Fred Shank

WASHINGTON, D.C. — With the U.S. Dept. of Veterans Affairs changing course and saying Apr. 29 that local V.A. hospitals nationwide should assess patients with HIV for organ transplants, Lambda Legal pressed the federal agency to take immediate action and end its discriminatory policy so veterans with urgent health needs are not left in limbo.

The Dept. of Veterans Affairs said V.A. hospitals should evaluate people with HIV to see if they're suitable for transplants, but said the V.A. will not perform the life-saving transplants. The agency also has not indicated whether patients with HIV can begin having access to pre-transplant treatment or be placed on waiting lists for organs while a national policy is developed. The Dept. of Veterans Affairs also hasn't given a timetable for developing a final policy, even though Lambda Legal said the life-saving nature of organ transplants requires immediate action.

"The Department of Veterans Affairs has taken a step in the right direction, but this policy shift still leaves in place a practice that discriminates against veterans with HIV on the basis of antiquated science — all while veterans' lives hang in the balance," said Jonathan Givner, AIDS Project Staff Attorney at Lambda Legal.

"The science is clear that HIV is not a limitation on survival after kidney and liver transplant. While the bureaucracy of Veterans Affairs waits and debates the obvious, the nation's most credible medical experts and journals have already concluded that transplants should be available to people with HIV.

"We call on the Dept. of Veterans Affairs to immediately clarify whether patients with HIV will have access to life saving treatment and can be placed on waiting lists for organs. We also call on the Dept. of Veterans Affairs to release a timetable explaining when the V.A. will adopt a policy that does not discriminate against veterans with HIV," Givner said.

Many of the leading medical journals that have published findings showing that HIV is not a limitation on organ transplants.

At the end of April Lambda Legal filed a complaint with the Iowa City Department of Veterans Affairs Medical Center on behalf of Gideon Green. Green is a 57-year-old Vietnam War veteran whom the V.A. hospital wouldn't even consider for a liver transplant because he has HIV. Green suffers from end-stage liver disease and his physicians have suggested that he may be a candidate for a liver transplant but was never able to even be considered. On Apr. 26, the Iowa City hospital reversed course and agreed to consider Green for a

transplant, just days after the hospital's director, Gary L. Wilkinson, had sent a letter to U.S. Congressmen Lane Evans rejecting Green because he has HIV.

In a letter sent to the U.S. Secretary of Veterans Affairs, Under Secretary for Health, and V.A.'s Office of Public Health and Environmental Hazards in Washington, D.C., Lambda Legal asked for a national policy concerning organ transplantation for people with HIV.

The letter states: "For individuals like our client, the V.A.'s lack of uniform, medically justifiable policy may have fatal consequences. Considering that approximately one-third of people with HIV in the United States are co-infected with hepatitis C, which can cause severe end-stage liver disease, the V.A.'s practice like has an astounding impact on a large number of HIV-positive veterans."

V.A. hospitals provide a range of services to more than 20,000 veterans with HIV, and the V.A. opened its Center of HIV Research Resources at Palo Alto Health Care System in California in 2001. When the center opened its director, Dr. Mark Holidniy, said, "Although HIV-infected veterans receive quality care with V.A., the creation of this center will expedite access to cutting edge HIV treatments, therapies and strategies."

Last year, in two separate cases, Lambda Legal persuaded a state Medicaid program and one of the nation's largest HMO's to



**People with HIV are sometimes blocked from being considered for transplants, even though medical and scientific evidence makes it clear that they should be evaluated on a case-by-case basis like any other transplant candidates.**

overturn decisions that prevented people with HIV from receiving organ transplants. John Carl was denied a kidney transplant by Kaiser Permanente in Colorado, but the HMO reversed course after Lambda Legal presented a range of scientific data and information regarding the client's personal health history and experience. Lambda Legal won a second reversal on behalf of William Jean Gough, who was denied a liver transplant by Pennsylvania's Medicaid program. In response to Lambda Legal's appeal, an administrative law judge overturned the decision once medical data concerning transplants for patients with HIV was considered.

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