

Hepatitis B and Immigration

This template has been developed to guide clinicians in supporting people living with chronic hepatitis B applying for a permanent visa.

Summary

Recent updates to departmental policy mean that in very few circumstances will a visa applicant living with chronic hepatitis B (CHB) be denied a permanent visa because they do not meet the health requirement set by the Department of Home Affairs. However, an applicant living with CHB may fail to meet the health requirement for a permanent visa if the Medical Officer of the Commonwealth (MOC) assesses that the provision of health care or community services received in Australia would result in a significant cost to the Australian community or would prejudice the access of Australian citizens or permanent residents to these services. In circumstances where one member of a family unit does not meet the health requirement, all members of the family unit will also fail the health requirement. The provision of a 'positive' medical report in a migration case is very important and can contribute to a favourable outcome for the applicant. Policy changes between 2019 and 2024 have improved the prospects for many people living with chronic hepatitis B in meeting the health requirement for permanent residency visa applications.

Where an applicant does not meet the health requirement and depending on the type of visa the applicant has applied for, they can be provided an opportunity to apply for a health waiver (see Table 1). At this stage a range of other discretionary issues, such as cost mitigation or compassionate and compelling circumstances, can contribute to whether a health waiver will be granted. These considerations should be raised by the applicant and their migration advisors. Clinicians may be asked to provide an additional report which addresses these issues.

This publication is intended as a general guide for clinicians on migration law and hepatitis B. It should not be relied on as legal advice. It is recommended that applicants talk to a lawyer or registered migration agent about their situation. The information contained in this guide is correct as of 10 May 2024.

It is often important that a medical report is provided prior to the applicant's appointment with the Medical Officer of the Commonwealth (MOC)

In this medical report it is important that the following is included:

- the applicant's contribution to the Australian community (e.g. via paid or volunteer work)
- whether it is likely that the applicant will develop liver disease including significant fibrosis, cirrhosis, or hepatocellular carcinoma; and whether they will develop end stage liver disease and require liver transplantation.
- whether or not the applicant is likely to need treatment, or at which stage it is likely that medication will be needed. For example, if the applicant is in the HBeAg- negative chronic infection (immune control) phase and does not have cirrhosis, they will not need antiviral therapy and may never need it.
- information regarding the benefits of treatment including how the applicant's ability to work will be influenced by them being on medication, and how this will minimise the likelihood of developing future serious liver disease.
- clinical credentials related to hepatitis B care of the clinician completing the medical report.

Introduction

This guidance has been developed as a source of information for clinicians to support people living with chronic hepatitis B (CHB) in the process of applying for a permanent visa. Applicants can be denied a permanent visa due to their CHB status, although this is now rare in the absence of other comorbidities or liver damage due to the increase to the 'significant cost'¹ threshold and the lowered cost of medication. To be eligible for a permanent visa the applicant must meet the health criteria set by the Department of Home Affairs.

a. Hepatitis B

Hepatitis B virus (HBV) infection may cause inflammation of the liver, cirrhosis, liver failure, and hepatocellular carcinoma (HCC). The virus is transmitted by contact with infected blood or some body fluids. The infection is vaccine preventable. If the initial infection persists for six months the person has chronic hepatitis B (CHB). The risk of developing CHB is much higher in infants via perinatal transmission and in young children compared to adults. The great majority of people living with CHB

were infected at birth or in early childhood, including in Australia where most people living with CHB were born overseas in endemic areas, or are Aboriginal or Torres Strait Islander people.²

Antiviral treatment for CHB is used to suppress the virus and to prevent, halt, or even reverse liver damage, including fibrosis and cirrhosis, and prevent HCC. The decision to initiate treatment depends on serum HBV DNA viral load, ALT levels, which phase of CHB the patient is in, the presence of cirrhosis, and a range of other patient factors.

Health assessment for visa applicants

When applying for a permanent visa the applicant must undergo a health examination conducted in Australia by a Bupa panel physician. After the examination, an MOC will assess and form an opinion on whether the applicant meets the relevant health requirement. Currently, MOCs are employed by the private multinational healthcare company Bupa. MOCs are required to determine whether the health status of the applicant could affect their visa application. Australian

¹ The 'significant cost' threshold is dictated by Departmental Policy and has changed twice since July 1, 2019. As of September 1, 2021, policy now defines the phrase 'significant cost' to be \$51,000 over the life of a visa. For permanent visa applicants with a chronic lifetime condition such as CHB, a MOC estimate of health care or community services costs is to be limited to 10 years. Current policy (and reduction in the cost of hepatitis B antiviral medications over time) mean that applicants on medication for CHB (or where the MOC has an opinion that they are likely to require medication in the future) are likely to meet the health requirement without the need to obtain a waiver where this is available, as explained in the following section.

² ASHM Health, [B Positive](#)

migration law provides two distinct types of health-related Public Interest Criteria (PIC) – see table 1.

Note: Meeting the relevant health requirement is required for temporary visa applications as well, but for most temporary visas, CHB – even if there is a need for medication – will not result in failure to meet the requirement. However, under Policy, it should be noted that some temporary visas are expected to lead to permanent visa applications later (for example partner, skilled or business skills, and temporary parent visas) and applicants for those visas are tested at the PERMANENT health standard when applying for the related temporary visa.

a. Health assessment criteria

Public Interest Criterion (PIC) 4005 and 4007 require that the applicants are:

- a) free from tuberculosis;
- b) free from any disease that is a threat to the public health in Australia or a danger to the Australian community (e.g. Ebola);
- c) free from any disease or condition that would be likely to require the applicant to:
 - a. receive healthcare or community services, or
 - b. meet the medical criteria for the provision of a community service, and the provision of those healthcare and community services are likely to result in a 'significant cost' to the

Australian community or prejudice the access of an Australian citizen or permanent resident to healthcare or community services.

For most temporary visas the costing is calculated on the visa duration. For permanent visas, the costing is calculated based on a 10-year period. For some temporary visas that are expected to lead to permanent visa applications later, the permanent visa costing period is applied. Under department policy, the significant cost threshold is currently set at \$51,000. Any estimated cost over \$51,000 will be considered 'significant.'

It is recommended that the applicant seeks advice from a licensed migration agent/lawyer.

The MOC considers the health care or community services for which a 'hypothetical person' with the same form and level of the applicant's condition would be eligible, regardless of whether the applicant will actually use these services if granted the visa.

The MOC considers:

- The nature of the condition;
- The severity of the condition;
- The age of the applicant;
- The type of visa applied for; and
- The visa period.

The MOC will not consider:

- If the applicant actually intends to use Australian healthcare services, or whether the applicant's healthcare costs will be met through alternative means (e.g. savings, health insurance);
- Reciprocal health care agreements with other countries;
- Compassionate access programs;
- If the applicant has their own supply of medication;
- If the applicant has their own carer, or other family members that provide support or care; and
- If the services are not available in some parts of Australia.

Although these factors are not considered by the MOC, they may be relevant to applicants who have applied for a permanent visa that has provision for a discretionary waiver of the health requirement, known as a health waiver, discussed below.

The Migration Regulations require that the MOC's opinion must be accepted as correct by the Department. Based on that opinion (unless there is a legal error in the opinion), a decision is made by the Department as to whether a hypothetical person like the applicant will be likely to incur significant costs or prejudice access of others to healthcare and/or community services.

b. What if the applicant fails the criteria? Who is eligible for a health waiver?

Visas where PIC4005 applicants do not have the possibility to apply for a health waiver. Failure to meet the health requirement on either the 'significant cost' or 'prejudice to access' grounds will result in a visa refusal.

Only visas subject to PIC 4007 have provision for a 'health waiver'. As only a small proportion of applicants living with CHB may fail the health requirement, it is recommended that the applicant seeks advice from a migration agent/lawyer prior to applying for a visa.

A health waiver is a discretionary decision made on a case-by-case basis. The decision-maker will consider compelling and compassionate factors as outlined in migration policy. These include monetary factors (the applicant's ability to mitigate the potential cost of healthcare through their income, savings and assets) weighed up with the intangible circumstances of their case, such as:

- If the applicant has occupational skills in high demand in Australia;
- If the applicant has strong ties to the Australian community – particularly if there are any caring or financial obligations to Australian citizens;
- If a decision not to waive the health requirement would result in Australia missing out on a significant social, cultural, or economic benefit the applicant provides, either through their employment or through

volunteering activities;

- If there are any Australian citizen children who would be negatively impacted by a decision not to waive the health criteria;
- If there is evidence that the decision would be detrimental to the applicant’s employer;
- If the applicant is already settled in a remote, rural, or regional area;
- If there are any reasons why the applicant cannot safely return to

their home country – this could include if the applicant has any fears about their ability to receive necessary healthcare services related to CHB in their home country.

A health waiver may be exercised if all other eligibility requirements for the visa have been met, and if the decision-maker is satisfied that granting the visa would be unlikely to result in 'undue' cost to the Australian community or 'undue' prejudice to the access to health care or community services of an Australian citizen or permanent resident.

Table 1: Health PICs categorised by visa type and health waiver

Health PIC	Visa type	Health waiver available, when failing the health assessment
PIC 4005	Majority of visas	No
PIC 4007	Most family stream, all humanitarian and a limited number of skilled visas, including temporary employer nominated work visas.	Yes * within the family stream, a health waiver is available for: partner/fiancée/defacto/spouse and child visas. Not available for parent, carer or adoptive child visas.

c. Why is hepatitis B an issue for immigration?

The main reason applicants living with CHB have previously been denied a permanent visa is due to the expected healthcare costs related to their CHB status. Prior to 2022, the cost of medication, depending on what phase of the disease the person is in and other factors such as the presence of cirrhosis, resulted in some applicants living with CHB exceeding the 'significant cost' threshold.

However, with the significant reduction in antiviral costs for CHB over time and the reduction of the permanent visa period of cost assessment down to 10 years, it is now rare for an applicant living with CHB who is otherwise well to be denied permanent residency on the basis of their CHB, even when they are on antiviral treatment.

People living with CHB with no evidence of progressive liver disease and who are not receiving antiviral therapy are recommended to have a check-up every six to twelve months. People who are on treatment may need tests more frequently. People living with CHB with an elevated risk of HCC should undergo liver ultrasound surveillance every six months.³

Critical change from 1 October 2022 in antiviral medication costings

If required, the cost of antiviral therapy contributes significantly to the expected overall healthcare costs. The Department periodically reviews its Policy Guidelines for MOC's for various diseases and conditions. New guidelines for viral hepatitis were released on 1 October 2022. The new Guidelines for CHB note that the two 'preferred first line therapies'

for CHB are Entecavir and Tenofovir and Policy is that administration of either will be 'lifelong' once commenced. In coming to cost estimates over 10 years, MOCs are asked to factor in the indicated costs of the medications set out in the Guidelines. Those medication costs in turn reflect the Pharmaceutical Benefits Scheme 'price' of both Entecavir and Tenofovir.

Prior to the release of the updated Notes for Guidance in October 2022, physicians were advised that applicants receiving Entecavir therapy only would likely meet the health requirement and applicants receiving Tenofovir would be unlikely to meet the health requirement. The updated notes for guidance released in October 2022 provide cost estimates that are significantly reduced and now mean patients receiving either Entecavir or Tenofovir should not exceed the 'significant cost' threshold.

From 1 October 2022, the ANNUAL COST of the recommended daily dose of Entecavir set out in the Guidelines (500mg) is \$829, meaning that over the 10-year period the health costs for those on Entecavir should be UNDER the 'significant cost' threshold (even after other required health services costs – mainly periodic tests also listed in the Guidelines).

From 1 October 2022, the ANNUAL COST of the recommended daily dose of Tenofovir set out in the Guidelines (300mg) is \$2540, meaning that over the 10-year period the health costs for those on Tenofovir should also be UNDER the 'significant cost' threshold.

It is important to note that this amount is for the treatment cost only and does not include other medication, medical, or diagnostic costs.

³ Hepatitis B Consensus Statement Working Group. Australian consensus recommendations for the management of hepatitis B infection. Melbourne: Gastroenterological Society of Australia, 2022.

a. What other reasons may cause an applicant living with HBV to be denied?

End stage liver disease associated with CHB is an indication for liver transplantation. If this applies to an applicant the issue is not only 'significant cost', but also prejudice of access of Australians to scarce medical resources, i.e. transplants from deceased donors.

Although a health waiver can be applied where the relevant visa subclass allows it, in these cases it is most unlikely that it will be granted under current policy.

Hepatitis B is not considered a public health threat to the Australian community. However, it might be considered a potential public health concern when the applicant intends to work in healthcare and undertake exposure-prone procedures where there is a risk of contact between the worker's blood and a patient's open tissue. In Australia, hepatitis B infection does not disqualify health-care workers from the practice or study of surgery, dentistry, medicine, or allied health fields.⁴ If this is a consideration, it is advisable that the applicant consults a viral hepatitis specialist experienced in the management of health care workers living with blood borne viruses. The Department will seek a report from a prospective employer or institution about whether a person would be involved in exposure-prone procedures before a visa decision is made.

How can clinicians support applicants living with HBV?

This section explains the role of a report written by the applicant's medical advisors. An appropriate report may help avoid a visa refusal even when it is not possible to apply for a

health waiver (visas with PIC 4005). A medical report will be essential in cases where a clinician is of the opinion that there is unlikely to ever be significant costs or prejudice to access healthcare. Examples could include applicants who do not currently require antiviral therapy, or applicants receiving antivirals who have no significant liver disease and in whom the risk of developing cirrhosis or HCC is therefore very low. If the MOC agrees with such an assessment and prognosis, it will increase the chance that the applicant will meet the health criteria.

It is often important that a medical report is provided prior to the visa applicant's appointment with a MOC.

It is often important that a medical report is provided prior to the visa applicant's appointment with the Bupa physician. The MOC must take this report into account in forming their opinion as to whether the health status of the applicant is likely to be a significant cost or prejudice to access healthcare. A medical report in relation to an applicant living with CHB provided to the MOC may persuade the MOC that it is unlikely there will be significant cost in that case. It is recommended that the applicant's relevant medical history and test results be provided in the medical report.

For example:

"An adult with CHB in the HBeAg – negative chronic infection (immune control) phase with low HBV viral load and no evidence of significant fibrosis will require regular investigations and clinical review but is not likely to be found a 'significant cost' by the MOC. This is because the person is at low risk of developing liver disease and related complications and anti-viral drugs are

⁴ ASHM Health, [B Positive](#)

not likely to be required.”

It is recommended that this report be provided by a clinician with:

- 1) expertise in the management of CHB, and
- 2) knowledge of CHB as related to migration laws and ideally with experience providing medical reports for the purposes of migration assessments.

Many physicians writing medical reports find it beneficial to outline their credentials at the beginning of the report. We recommend clinicians define how they meet the above criteria before providing recommendations pertaining to the patient.

All permanent visa applicants must disclose to the MOC in writing whether they have or ever had viral hepatitis, even if they are symptom free and are not receiving therapy.

a. What should be included in a medical report?

In all cases a medical report should deal with the nature and degree of severity of CHB in the visa applicant and the prognosis. The issues to address could include:

- the applicant’s medical history and diagnosis;
- whether the applicant’s CHB status is likely to have any impact on their ability to work or contribute to the Australian community (e.g. via paid or volunteer work) – and if not, emphasising this fact;
- whether the applicant is appropriate for receiving care in a community/primary care setting (i.e. does not clinically require management in a hospital specialist setting);

- whether it is likely that the applicant will develop liver disease, including significant fibrosis, cirrhosis, or HCC; and whether they will likely develop end stage liver disease and require liver transplantation;
- information regarding the benefits of treatment, including when the applicant is on medication, whether this will influence their ability to work, and how antiviral treatment will minimise the likelihood of developing liver diseases;
- whether or not the applicant is likely to need antiviral treatment, or when it is likely that medication will be needed. For example, if the applicant is in the immune control phase they will not need immediate treatment and may never need it.

- *NB:* The Medical Policy advice of the Department to MOCs is that only 10-20% of subjects in the HBeAg-negative chronic infection (immune control) phase may have subsequent reactivation of HBV with HBeAg-negative chronic hepatitis (immune escape), even after many years. If medication has commenced or is likely to be needed, the report should specify what antiviral treatment is appropriate.

The provision of a ‘positive’ medical report in a migration case is very important – and can contribute to a favourable outcome for the applicant. The issues to address should be confined to MEDICAL issues and not deal with other issues such as the non-medical personal circumstances of an applicant, or special or non-medical compassionate issues.

In addition, the range of other discretionary issues, such as cost mitigation or strongly compassionate and compelling other reasons can contribute to whether or not a health waiver will be granted. These issues should be made by the visa applicant and their migration

advisors.

For more information on hepatitis B, including treatment options, [please visit B Positive](#).

Resources

[Australian Government Department of Health 'Meeting our health requirement'](#)

This website outlines the health examination process in more detail, as well as role of the Medical Officer of the Commonwealth in determining whether an applicant meets the health requirement.

[B Positive | Hepatitis B for Primary Care](#)

This online resource developed for health professionals outlines hepatitis B in extensive detail, covering clinical assessment, treatment and management of chronic hepatitis B, liver disease – including hepatocellular carcinoma (liver cancer) – and more.

[Hepbcommunity.org | Online resource for community members](#)

This is an online community resource to connect people affected by Hepatitis B with one another and trustworthy experts.

[Hepatitis B Voices Australia |community organisation](#)

Hepatitis B community-led organisation that is wholly led by people affected by hepatitis B in Australia. The voices of affected communities are central to our work.

[Hepatitis Australia's National Infoline | Community organisation](#)

Hepatitis Australia is the peak community organisation to progress national action on issues of importance to people affected by hepatitis B and hepatitis C.

[Federation of Communities Council of Australia \(FECCA\) | Community organisation](#)

Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australians from culturally and linguistically diverse backgrounds. FECCA's role is to advocate on issues that affect ethnic communities to government, business and our broader society to promote the ongoing success story of multicultural Australia.

[Refugee and Immigration Legal Service \(RAILS\) | Legal service](#)

RAILS is a leading non-profit organisation that strives to empower migrants, refugees, asylum seekers and their families. They provide legal advice in immigration and refugee matters.

[HIV/AIDS Legal Centre Inc. \(halc\) | Legal Service \(NSW\)](#)

HALC is a not-for-profit, specialist community legal centre, providing legal assistance to people with HIV or Hepatitis related legal matters.

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