

## FAQ – Unmet Medical Need

Version	Summary of changes
Version 1.14 versus version 1.13	Addition of question 24, update question 31
Version 1.13 versus version 1.12	Addition in answer to question 27
Version 1.12 versus version 1.11	Addition of question 1 and 27, change in answer of question 32
Version 1.11 versus version 1.10	Addition of question 13
Version 1.10 versus version 1.9	Change wording question 22: The responsible physician must not be based in Belgium => The responsible physician can be based outside Belgium
Version 1.9 versus Version 1.8	Addition of modality of responsible physician in question 22
Version 1.8 versus Version 1.7	addition of question 12 update question 24 and 25

### I. General

#### 1. How is unmet medical need defined?

An unmet medical need is present when the MNP/CUP patient population has a life threatening disease, a chronic disease or a seriously debilitating disease which cannot be satisfactorily treated with a product that is licensed and reimbursed for this indication and commercially available in Belgium.

#### 2. When is a product considered as “commercially available”?

Commercially available means that the product is available on the Belgian market (independently of its reimbursement status).

#### 3. Can a product that is commercially available be provided in the frame of a Medical Need Program (MNP) for the authorized indication?

General: Once a product is commercially available for a given indication, the product cannot be provided any longer in the frame of a MNP for the same indication, even if reimbursement criteria are not fixed yet. There is one derogation: if a product that was already on the market for indication X, has been authorized for indication Y and reimbursement procedure is ongoing for indication Y, an MNP can be requested for indication Y. The MNP can run in indication Y until the reimbursement procedure has ended for indication Y, regardless of its outcome.

#### 4. Can a MNP be set-up for a registered product in the authorized indication but with a different dosing regimen?

No, the modification in dosing regimen cannot be regarded as a 'new' not yet authorized indication of an already authorized medicine that may qualify for an application to start up an MNP, as referred to in Article 6quater, § 1, 3<sup>o</sup>) of the Medicines Law.

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**5. Could we apply for a Compassionate Use Program (CUP) or Medical Need Program (MNP) in place of an extension trial/open label study?**

The main goal of a CUP or MNP is to provide an early access to a new innovative medicinal product which addresses an unmet medical need or a major therapeutic advantage. From a methodological point of view, clinical trials are practically the only means of obtaining reliable and interpretable efficacy and safety data for a medicinal product. Although safety data may be collected during CUPs or MNPs, such programs cannot replace clinical trials for investigational purposes. CUPs and MNPs are not a substitute for properly conducted trials and should therefore not slow down the implementation or continuation of clinical trials intended to provide essential information relative to the benefit/risk balance of a medicinal product. Patients should always be considered for inclusion in clinical trials before being offered inclusion into a CUP or MNP.

Hence if the objective is to continue the clinical data collection (e.g. extension of follow up), CUP/MNP shall not be possible. But if the objective is to continue access of the MP for patients included in the study pending the access through the normal distribution pathway, it is indeed possible to set up a CUP/MNP.

**6. Is it possible to collect data during a CUP or MNP in order to improve the understanding of the treatment in clinical practice?**

As stated in the previous answer, CUPs or MNPs cannot replace clinical trials for investigational purposes. However data collected during a CUP or MNP that are necessary for the conduct of the program (e.g. to check inclusion/exclusion criteria, to follow-up the B/R of a patient, pharmacovigilance data) could be used to enlarge the understanding of the treatment. It is not possible to collect more data than strictly needed for the conduct and evaluation of the program.

**7. Could we request for Scientific-Technical advice regarding Unmet Medical Need?**

Yes. Scientific-Technical advice can be requested regarding all Unmet Medical Need questions. For the STA procedure please refer to [http://www.fagg-afmps.be/en/human\\_use/medicines/medicines/scientific\\_technical\\_advice/generalites/](http://www.fagg-afmps.be/en/human_use/medicines/medicines/scientific_technical_advice/generalites/).

**8. How to proceed if the applicant wants to request for a cohort (Early Temporary Reimbursement)?**

At the moment of submission for a CUP or MNP (Early Temporary Authorization or ETA), the applicant needs to notify his intention to request a cohort. Once the CUP or MNP is approved the request for cohort (Early Temporary Reimbursement or ETR) can be done at the RIZIV/INAMI. The starting date of the CUP or MNP cannot be later than the date of cohort request. For further information on cohort request please refer to <http://www.inami.fgov.be/nl/themas/kost-terugbetalen/door-ziekenfonds/geneesmiddel-gezondheidsproduct/terugbetalen/Paginas/unmet-medical-need.aspx>. Having the intention to request or not for a cohort (ETR) does not influence CUP or MNP approval/refusal (ETA).

**9. Is a MNP with a biosimilar possible?**

A MNP with a biosimilar (for instance in a new indication) is not excluded but should fulfill all conditions for the set-up of a MNP.

**10. Can a CUP or MNP be requested for a medicinal product for prophylactic vaccination?**

The prophylactic vaccination in healthy persons falls outside the scope of the compassionate use definition. Please be aware that Art. 110 of the RD of 14/12/2006 might be applicable for these cases.

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**11. Can we set-up a MNP for a combination of two medicinal products for a new indication that is in clinical development if each of the two products is registered in another indication?**

Yes, it is possible to set-up a MNP for a combination of medicinal products for a new indication provided that all conditions for a MNP are fulfilled regarding unmet need and benefit/risk balance.

If the two drugs have two different MAHs, the MNP request can be made by one of the MAHs with the agreement of the other MAH. The MAH making the request is the responsible of the program with the responsibilities as defined in the answer on question 22. Before the start of the program an agreement should be made between the MAHs to define the tasks and responsibilities of each MAH.

**12. Should we provide all medicinal products used in a CUP or MNP for a combination of medicinal products free of charge?**

One of the medicinal products indicated in a CUP or MNP should be provided free of charge. Although it would be highly appreciated if the other medicinal product would be as well provided free of charge by the MAH that is requesting the CUP or MNP, it is not legally obligated to provide all medicinal products free of charge. But in practice you need to consider the affordability of this cost for the patients.

**13. In a CUP or MNP the provision of the medicinal product to the patient is free of charge. What does this include?**

The provision of the medicinal product to the patient includes the medicinal product, its preparation (in pharmacies) and its administration (infusion, injection, etc.) to the patient. On the other hand, the costs adjacent to the provision of the drugs such as an outpatient stay or hospitalization should be borne by the patient.

## **II. Application**

**14. Do we have to submit the complete EMA dossier?**

If an application for Marketing Authorization has been introduced at EMA it is not necessary to provide the whole dossier. Please mention in the cover letter that an MA application has been introduced and the reference of the dossier. In this way we can consult the dossier.

**15. Do we have to use the protocol and other templates available on the [website](#)?**

It is highly recommended to use the template documents in order to capture all necessary information.

**16. What is the purpose of the ‘Summarized information for publication’?**

The idea of the document ‘Summarized information for publication’ is to have a proposal made by the applicant so that there is clarity from the start of what will be made public at the end of the procedure regarding the conditions of the program. Therefore it should be written with the patient in mind, i.e. in a user friendly way, suitable for a layman to understand. The [template](#) of the Summarized information for publication is available on our website.

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**17. What should be done if the shelf life of the medicinal product used in a CUP or MNP is different for the commercial product?**

The IMPD for the compassionate use product containing the stability-extension protocol should be provided to support its shelf life.

**III. Labeling, distribution and delivery**

**18. What should be the labeling for the medicinal product used in the MNP if there is not yet a Belgian packaging available?**

In case the product is not yet commercially available in Belgium (no Belgian packs available) the label of the medication has to be conform with the Annex 13 of GMP Volume 4. In this last case, the requirement “for clinical trial use only” should be replaced by “MNP – cannot be sold”. A labeling derogation (English labeling) is possible if patient does not take the medication at home and if the hospital staff that is in contact with the product understands the English language. If the patients takes the medicinal products home, the (hospital) pharmacist can stick labels in the 3 national languages. These derogations should be notified in the cover letter of the application.

**19. Do medicinal products used in a CUP, need to be released by a Qualified Person prior to be used?**

Yes, a release by a Qualified Person is always needed, regardless of the status of the medicinal product. The company that performs the release has to possess a European manufacturing and importation authorization (MIA).

**20. On what basis can a (hospital) pharmacist deliver a medicinal product for unmet medical need?**

Although a common prescription is not necessary, it is highly recommended to use a form for obtaining the medicinal product, completed by the treating physician with the coordinates of the patient.

**21. In case a product used in a CUP or MNP is currently QP released in the UK, is a EU QP release site required?**

Yes the UK is now considered a third-party country. If regarding this change, documents submitted in the scope of a CUP or MNP need to be updated, this should be done by non-substantial amendment.

**IV. Ongoing programs**

**22. What are the responsibilities of the actors in a CUP or MNP?**

Actors – modalities	Responsibilities
<p><b>Treating physician</b></p> <ul style="list-style-type: none"> <li>- any Belgian physician</li> </ul>	<ul style="list-style-type: none"> <li>- Explain the ICF and the benefit/risk to the patient</li> <li>- Send his motivated request to the responsible physician with a signed ICF and a copy of the identity card of the patient*</li> </ul>

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<p><b>Responsible physician</b></p> <ul style="list-style-type: none"> <li>- A physician understood as stipulated in the Royal Decree nr. 78. The task of the responsible physician falls within the practice of medicine (art. 2) and so art. 7 (license to practice) is applicable. This assures (because of the ethical oversight) the independency of the responsible physician with respect to the responsible of the program</li> <li>- The responsible physician does not need to be an employee of the applicant company</li> <li>- The responsible physician cannot act as treating physician in a program given that in this case this responsible physician would have to include his/her own patients to the program</li> <li>- The responsible physician can be based outside Belgium although he must have the license to practice medicine in Belgium</li> </ul>	<ul style="list-style-type: none"> <li>- Check the inclusion/exclusion criteria</li> <li>- Check ongoing clinical trials suitable for the patient</li> <li>- Give his authorization to enroll the patient in the program to the responsible of the program</li> <li>- Codify adverse events and send these data to the responsible of the program*</li> </ul>
<p><b>Responsible of the program</b></p> <ul style="list-style-type: none"> <li>- The responsible of the program stated in art.106 §3 can be a sponsor in the comprehension of the law of 7 May 2004 regarding experiments on humans, meaning that the responsible can be a person, an enterprise, an institution or an organism responsible for the launch, management and/or financing of an experiment with the concerned medicinal product</li> </ul>	<ul style="list-style-type: none"> <li>- Implement the CUP/MNP</li> <li>- Assign the responsible physician for the program</li> <li>- Manage a central register of patients included</li> <li>- Manage the record of coded suspected serious adverse events</li> <li>- Report the SUSARs to the FAHMP</li> </ul>

\*A waiver can be requested to keep the key for the codification on the treating physician's side.

**23. Do we have to include every patient that fulfils the inclusion/exclusion criteria?**

Once the CUP or MNP has been set up, all patients that fulfill the inclusion/exclusion criteria should have access to the CUP or MNP unless objective and motivated limitations are stipulated in the program.

**24. What should we do if we encounter a supply problem during a running program?**

If there is a shortage in stock of the program medicinal product, it must first be ensured that already included patient can continue their treatment as long as they benefit from it. If this means that temporarily no new patients can be included, the program should be put on hold.

Please inform the FAMHP as soon as possible about a coming shortage in stock.

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**25. Do we need to submit the central registry to the FAMHP?**

It does not need to be submitted but should be available in view of control by FAMHP, traceability and pharmacovigilance. Therefore it is necessary that the central registry is accessible in Belgium. .

**26. What is published on the FAMHP website?**

All programs that have been submitted after 01/07/2014 and have been approved are published on the [website](#) in the appropriate section: 'authorized programs', 'closed programs' or 'on hold programs'. For each of these programs, the 'Summarized information for publication' and the 'Informed Consent Form' that have been approved are published annexed to the official approval of the FAMHP.

**27. How should we notify when the program will end?**

If the program ends, a notification e-mail should be send to [umn@afmps-fagg.be](mailto:umn@afmps-fagg.be). Please indicate in this e-mail the motivation for ending the program, the number of patients that have been included in the program, the number of patients that are still treated and will be further provided with the medicinal product after the end of the program. Once the program is ended, pharmacovigilance data should no longer be sent in the frame of the re-evaluation of the program however the applicant stays responsible for the implementation of the program for the patients included before the date of termination of the program unless the medicinal product is available on the market.

**28. Is it possible to give a commercially available medicinal product for free or at reduced cost if for instance it is not possible to set-up an unmet medical need program or at the end of such a program for patients that do not fulfill the reimbursement criteria?**

Yes, provided that the provision does not have the purpose of promoting the prescription, dispensing, supply, sale or consumption of medicinal products, and does not have the characteristics of advertising within the meaning of Article 10 of the Law of March 25, 1964 on medicinal products for human use. The normal distribution chain must be followed, i.e. the drug must be delivered to the patient by the pharmacist, in his pharmacy. (So no "direct to patient" by the manufacturer or the wholesaler).

**29. Does a CUP has to switch to a MNP when Marketing Authorization is received?**

A CUP approved according to the legislation of 25 April 2014 can continue to run at the moment a Marketing Authorization is obtained. The CUP can run until the product comes effectively on the market. If a Marketing Authorization is granted after the application for a CUP but before the CUP is authorized, it will be categorized as a CUP.

**30. How to proceed if the applicant considers that the enlargement of the unmet medical need definition (new legislation entered into force on 13/12/2020) would conduct to a substantial amendment in an ongoing program?**

In this case, the applicant can submit a substantial amendment as described in chapter V. of our guidance.

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## V. Pharmacovigilance

**31. If a program ends before the deadline for notification of the pharmacovigilance data, should this notification still be done?**

Periodical pharmacovigilance data should only be notified if the program is ongoing (open for new patients). The applicant should notify the FAMHP regarding the end of the program (see question 27).

**32. Will the pharmacovigilance timelines change, if during a program, MA is requested at EMA (for the same medicinal product in the same indication)?**

Yes, however the upcoming deadline for pharmacovigilance reporting (6 months after approval or re-evaluation) is kept. From then on, yearly reporting is planned.

## VI. Urgent situations

**33. Can the Urgent Procedure be used if the medicinal product can be imported?**

No, if the medicinal product can be imported in time, the Urgent Procedure cannot be used but the product needs to be imported. The application of Art. 105 of the RD of 14/12/2006 for importation is applicable for import from any country in which the medicinal product is authorized. It is possible to provide the product free of charge or at reduced cost if the provision does not have the purpose of promoting the prescription, dispensing, supply, sale or consumption of medicinal products, and does not have the characteristics of advertising within the meaning of Article 10 of the Law of March 25, 1964 on medicinal products for human use.

**34. Can the Urgent Procedure be used if the medicinal product is commercially available in Belgium?**

No, one of the conditions of Art. 107/1 is that the patient cannot be treated with a medicinal product that is commercially available or under hospital exemption, or with a magisterial preparation.

**35. Is Pharmacovigilance Reporting necessary for medicinal product used in an Urgent Situation?**

For medicinal products used according to art. 107/1 (urgent situations), there is no need for pharmacovigilance reporting to the UMN division of the FAMHP as for a CUP or MNP. However regular pharmacovigilance should be applied for urgent cases conform the [EU phamacovigilance legislation](#).