

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS (PHENTERMINE/
FENFLURAMINE/DEXFENFLURAMINE)
PRODUCTS LIABILITY LITIGATION

: MDL DOCKET NO.
: 2:15MD1203
:

SHEILA BROWN, ET AL.

: CIVIL ACTION NO.

v.

: 99-20593
:

AMERICAN HOME PRODUCTS
CORPORATION

Appellant:
Arbitration No.:
Claim No.: 183/00

: REPORT AND AWARD
: OF ARBITRATOR

FINDINGS OF FACT

1. On [REDACTED] the AHP Settlement Trust ("Trust") denied the claim of [REDACTED] for Matrix Compensation Benefits.

2. On [REDACTED] filed an appeal from the denial of benefits by the Trust, requesting that the United States District Court ("Court") refer this matter to Arbitration.

3. On [REDACTED] the claim of [REDACTED] was referred by the Court to Arbitration pursuant to VI.C.4(h) & (i) or VI.D.1.(f) & (g) of the Nationwide Class Action Settlement Agreement with American Home Products Corporation.

4. On [REDACTED] an Arbitration Hearing was held concerning the claim of [REDACTED]

ANALYSIS

FUND A ISSUES NOT COVERED BY ARBITRATION PROCESS

1. The Settlement Agreement provides for two funds, Funds A and B, to be established to provide benefits to class members. (Settlement Agreement, Section III.A.1; Memorandum and Pretrial Order No. 1415 (August 28, 2000) at 62). Fund A provides funding only for non-Matrix specified benefits and expenses, e.g., drug and echocardiogram reimbursement. (Settlement Agreement, Section IV.A; Memorandum and Pretrial Order No. 1415 (August 28, 2000) at 62). Fund B provides funding for Matrix Benefits. (Settlement Agreement, Section IV.B; Memorandum and Pretrial Order No. 1415 (August 28, 2000) at 62).

2. The arbitration appeals process only covers determinations made regarding Fund B, specifically, the eligibility of claimants to receive Matrix Compensation Benefits and/or the amount of Matrix Compensation Benefits they are entitled to receive.

3. In his statement of the case, requests benefits based on alleged medical symptoms and conditions allegedly caused by the use of the Diet Drugs. On his Green form, indicates that he believes he is entitled to Level II Benefits on the Fund B Matrix. (Green Form, Part I, page 4, questions 5 and 6).

FUND B MATRIX ELIGIBILITY AND QUALIFICATION

4. submitted a Green Form dated

5. In the Green Form, reference is made to an echocardiogram which was performed on (See the Green Form, Part II, page 8, at questions C.1 and C.2).

6. The Green Form submitted by _____ reports moderate mitral valve regurgitation and no aortic valve regurgitation. (See Green Form, Part II, page 8, question 3).

7. The Green Form submitted by _____ also reports a complicating medical condition in response to Question F-5 of Part II. (See Green Form, Part II, page 10, question F-5).

8. The answers to the questions in Part II of _____ Green Form were completed by his physician, _____ a Board-Certified Cardiologist. (See Green Form, Part II, page 7, Section A).

9. The Green Form submitted by _____ indicates that his date of birth was _____ (Green Form, Part I, page 1, question 1).

10. At the time of the _____ echocardiogram, _____ was 81 years of age. (Green Form, Part I, page 1, question 1).

CONCLUSIONS

1. The Trust findings are not clearly erroneous as set forth in Rule 5 of the Rules Governing the Arbitration Process.

2. Based upon the above findings, _____ is not entitled to any Matrix Benefits because:

a. The Settlement Agreement, as amended, states that a Claimant must have been diagnosed with an FDA-Positive condition prior to the age of 80. (Settlement Agreement, Section IV.B.2.(a); Green Form Appendix, Section C, Age of Diagnosis Tables).

b. diagnosed condition was based solely on the echocardiogram. (See Green Form, Part II, page 8, question C-2).

c. At the time of the echocardiogram, was 81 years of age. (Green Form, Part I, page 1, question 1).

3. Based upon all of the above, the Appellant is not entitled to any Matrix Benefits.

10/26/05