

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

IN RE: DIET DRUGS (PHENTERMINE/ : MDL DOCKET NO.  
FENFLURAMINE/DEXFENFLURAMINE) : 2:15MD1203  
PRODUCTS LIABILITY LITIGATION :  
: :  
-----: :  
SHEILA BROWN, ET AL. :  
v. :  
AMERICAN HOME PRODUCTS CORPORATION : CIVIL ACTION NO.  
: :  
-----: 99-20593  
: :  
Appellant: : REPORT AND AWARD  
Arbitration No.: : OF ARBITRATOR  
Claim No.: 183/00 : :

FINDINGS OF FACT

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

2. On [redacted] [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 (SA).

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

5. [redacted] GREEN FORM, dated [redacted] indicated that she had mild mitral valve regurgitation and no aortic valve

regurgitation (questions C.3.A and B). The echocardiogram submitted with her claim also reflects mild mitral valve regurgitation.

6. GREEN FORM does not establish that she was FDA Positive.

#### ANALYSIS

1. is an "Eligible Class Member," because her GREEN FORM reports mild mitral valve regurgitation. (SA) §IV.B.1.a.

2. To determine eligibility for benefits, it must first be determined whether Matrix A-1 or B-1 applies to her claim.

3. Matrix A-1 is inapplicable to her claim because she is not FDA Positive. SA §IV.B.2.d(1).

4. Matrix B-1 is inapplicable to claim even though she was diagnosed by a Qualified Physician as having mild mitral regurgitation, because no Matrix Level of disease severity is applicable to her claim. See SA §IV.B.2.c, which refers to the "levels of disease severity in a Diet Drug Recipient which qualify eligible Class Members for payment on the Matrices..." Under this provision, if does not meet one of the specified levels of disease severity she is not entitled to benefits.

5. Matrix Level I does not apply to her claim because her GREEN FORM does not report severe left sided valvular heart disease. SA §IV.B.2.c(1).

6. Matrix Level II does not apply to her claim because her GREEN FORM does not report moderate or severe aortic regurgitation or moderate or severe mitral regurgitation with complicating factors.

SA SIV.B.2.c(2).

7. Matrix Level III does not apply to her claim because her GREEN FORM does not report left sided valvular heart disease requiring surgery or a condition of equal severity.

8. Matrix Levels IV and V do not apply to her claim because her GREEN FORM does not report any of the conditions specified under Matrix Levels IV or V. SA SIV.B.2.c(4)-(5).

9. is not entitled to benefits, despite the presence of mild mitral valve regurgitation, because her GREEN FORM reports no condition that would place her claim on either Matrix A-1 or B-1.

#### CONCLUSIONS

1. The Trust's Final Determination that was not entitled to Matrix Compensation Benefits was not clearly erroneous as a matter of law.

2. In the absence of FDA Positive status and the applicability of any Matrix Level of benefits under Matrix B-1 to her claim, is not entitled to Matrix Compensation Benefits. Should her condition of mild mitral valve regurgitation worsen to a level cognizable under either Matrix A-1 or B-1, she may file a claim for Matrix Compensation Benefits by December 31, 2015, according to the terms of the Settlement Agreement.

April 10, 2002

DATE

ARBITRATOR