

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:	:	REPORT AND AWARD OF ARBITRATOR
Arbitration No.:	:	
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] 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) & (l) 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

1. According to questions 7, 8 and 9 of Pink Form, answered that she took Pondimin and Redux for 61 days or more.
2. In the Green Form, reference is made to three echocardiograms which were performed on _____ and on _____ (See the Green Form, Part II, page 8, at questions and answers C.1 and C.2).
3. The answer to the question in Section C.3.A of the Green Form indicates that _____ does not suffer from mild, moderate or severe mitral regurgitation. (See the Green Form, Part II, page 8).
4. The answer to the question in Section C.3.B of the Green Form indicates that _____ does not suffer from mild or severe aortic regurgitation. (See the Green Form, Part II, page 8).
5. The answer to the question in Section C.3.B of the Green Form indicates, however, that _____ does suffer from moderate aortic regurgitation. (See the Green Form, Part II, page 8).
6. The answers to the questions in Part II of the Green Form, including Sections C.3.A and C.3.B thereof, were completed by the Appellant's physician, a board-certified cardiologist.

CONCLUSIONS

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

2. Based on the answer to question C.3.B of the Green Form, it appears that Appellant is FDA Positive according to the terms of the Settlement Agreement. (Settlement Agreement, Section I.22.(a)).

3. However, Appellant is not entitled to any Matrix Benefits because she does not currently suffer from a condition specified in the terms of the Settlement Agreement.

4. Matrix Level I Benefits must be based on severe aortic regurgitation and/or severe mitral regurgitation, neither of which conditions exist in this case, (Id., Section IV.B.2.c(1)(a)), or based on other conditions that are not present in this case. (Id., Section IV.B.2.c(1)(b)).

5. Matrix Level II Benefits must be based, at a minimum, (a) on moderate or severe aortic regurgitation, or on moderate or severe mitral regurgitation, and (b) on the additional conditions specified in the Settlement Agreement. (Id., Section IV.B.2.c(2)(a) and (b)). does suffer from moderate aortic regurgitation. However, does not suffer from any condition associated with moderate aortic regurgitation, which is a prerequisite to recovery. (Id., Section IV.B.2.c(2)(a)).

6. The conditions that are prerequisite to recovery of Matrix Levels III, IV and V Benefits are also not present in this claim. (Id. Section IV.B.2.c(3), (4) and (5)).

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

