

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

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

FINDINGS OF FACT

1. On [redacted] the AHP Settlement 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. 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

1. According to Questions 8 and 9 of Pink Form answered that she took Diet Drugs for 61 days or more.
2. Claimant submitted one completed green form based on an echocardiogram dated
3. The answers to questions C.3.A. and C.3.B on page 8 of Part II of the GREEN Form, which is signed but undated, show that the claimant does not have mitral or aortic regurgitation.
4. Question F.8, page 11, of the GREEN Form states claimant has an ejection fraction between 50%-60%.
5. The echocardiogram reports "trace-to-mild grade mitral regurgitation," "trace grade" aortic and tricuspid valve regurgitation and "mild aortic valve stenosis".
6. A second echocardiogram reports mild mitral regurgitation and mild pulmonary hypertension, and is otherwise consistent with the echocardiogram.
7. Claimant submitted a GRAY II Form, based on an echocardiogram, which shows mild mitral regurgitation and no aortic regurgitation. (GRAY II Form, page 2, question 6).
8. Claimant has stated her belief that she is entitled to compensation based on a B-1 Level 1 Condition (questions 5 and 6, page 4 of the GREEN Form).
9. Claimant has also stated her belief that she should be "compensated" and reimbursed for her out-of-pocket medical expenses and the cost of the Diet Drugs.

CONCLUSIONS

1. The Trust findings are not clearly erroneous as set forth in Rule 5 of the Rules Governing Arbitration Process.
2. has demonstrated mild mitral regurgitation, trace aortic and tricusbes regurgitation, ejection fractions between 50% and 60%, New York Heart Association Functional Class II symptoms, mild aortic stenosis and mild pulmonary hypertension.
3. Based upon the findings above, is not entitled to any Matrix Benefits at this time because the conditions that are prerequisite for recovery of Matrix-Level I, II, III, IV, or V Benefits are not present in this claim. (Settlement Agreement, Sections IV.B.2.c(1), (2), (3), (4), and (5))
4. A claimant may qualify for Matrix Benefits if she satisfies one of the requirements for one of the Matrix Levels identified in the Settlement Agreement. (Settlement Agreement, Section IV.B.2.c., page 39).
5. The Settlement Agreement, states that mild mitral regurgitation is, by itself, insufficient to establish entitlement to Matrix.
6. Matrix Benefits based on aortic regurgitation require a moderate, or greater, level of regurgitation-trace regurgitation is insufficient. (Settlement Agreement, Section IV.B.2.c(1) & (2), page 39).
7. Although the ejection fractions reported in . GREEN Form and echocardiograms are considered in the calculation of Matrix Benefits, qualification for Matrix Benefits based thereon also requires, inter alia, moderate or greater regurgitation of the aortic or mitral valve or qualification for Matrix Levels III or IV.
8. Pulmonary hypertension may also be considered a factor in the determination of

Matrix Benefits, but the pulmonary hypertension also requires moderate or greater mitral or aortic regurgitation, or qualification for certain other Matrix Levels. Although the presence of NYHA-FC-II symptoms is relevant to Matrix Level IV, in order to qualify for such benefits the claimant must also qualify for Matrix Level III.

9. Tricuspid valve regurgitation is not relevant to Matrix Benefits determinations.

10. Aortic valve stenosis actually reduces the Matrix Benefits to which a Class Member would otherwise be entitled.

11. submissions do not report any condition or combination of conditions that would qualify her for any of the five (5) Matrix Levels and she is thus not entitled to Matrix Benefits.

12. Claimant's request for reimbursement does not concern Matrix Benefits. The Arbitration appeals process only covers determination made regarding Matrix Benefits. In addition, to the extent claimant's request for compensation concerns non-Matrix cash and/or medical services, this type of claim is also not subject to the Arbitration process.

13. Based upon all of the above, is not presently entitled to any Matrix Benefits, nor is she entitled to reimbursement for monies spent on medical treatment and/or for Diet Drugs.

8/13/04
DATE

ARBITRATOR