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NAME(S) AND DATE(S)

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.	:	
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] filed an appeal from the denial of benefits by the Trust to this Court 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 Section 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 on the claim of [redacted]
5. [redacted] submitted several inconsistent and contradictory GREY and GREEN FORMS in support of her claim, but only one echocardiogram report, dated [redacted] In view of the

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inconsistent and contradictory nature of her reports, it was impossible to ascertain actual condition. The Trust was willing, however, to interpret submission in the manner most likely to entitle to Matrix Benefits. Thus, for purposes of this arbitration, it was assumed that had the following conditions: (i) moderate mitral valve regurgitation; (ii) moderate aortic valve regurgitation; (3) an AHA-FL-II stroke; and (iv) NYHA-FC-II symptoms. See Trust's Response to Statement of the Case, dated at pages 1-2.

6. On the basis of those assumptions, it is further assumed that is FDA Positive.

ANALYSIS

1. is an "Eligible Class Member," because the assumption of moderate aortic and mitral valve regurgitation makes her FDA Positive. SA §IV.B.1.a.
2. To determine whether is entitled to benefits, however, it must be determined whether her claim qualifies under one of the five Matrix Levels established in the Settlement Agreement (SA §§IV.B.1.a and 2.C).
3. is not entitled to Matrix Compensation Benefits, 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.

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4. Matrix Level I does not apply to her claim because there is no indication of severe left sided valvular heart disease or that she has been diagnosed with Endocardial Fibrosis in addition to having been diagnosed FDA Positive. SA §IV.B.2.c(1).

5. Matrix Level II does not apply to her claim because there is no indication of moderate or severe aortic valve regurgitation or moderate or severe mitral valve regurgitation with complicating factors. SA §IV.B.2.c(2).

6. Matrix Level III does not apply to her claim because there is no indication of left sided valvular heart disease requiring surgery or a condition of equal severity.

7. Matrix Levels IV and V do not apply to her claim because there is no indication of any of the conditions specified under Matrix Levels IV or V. SA §IV.B.2.c(4)-(5).

8. is thus not entitled to Matrix Compensation Benefits, despite the presence of moderate aortic valve and mitral valve regurgitation, because there is no indication of any condition that would place her claim on any Matrix Level.

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. Despite FDA Positive status and eligibility for benefits, the inapplicability of any Matrix Level to her claim

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eliminates any entitlement to Matrix Compensation Benefits at this time. While it is difficult to ascertain the exact basis on which has made her appeal, it may have been based on a misunderstanding of the distinction between "eligibility" for and "entitlement" to Matrix Compensation Benefits. Should her condition worsen to a level cognizable under a Matrix Level, she may file a claim for Matrix Compensation Benefits by December 31, 2015, according to the terms of the Settlement Agreement.

September 16, 2004

DATE

ARBITRATOR