

a pacemaker and on [DATE] to debride and close a sternal wound.

3. The Estate's GREEN FORM answered affirmatively that [APPELLANT] experienced "chordae tendinae rupture or papillary muscle rupture; or acute myocardial infarction associated with acute mitral regurgitation" in response to question 8 on page 9. The GREEN FORM also reported affirmatively, again on the basis of the August 12 echocardiogram, that [APPELLANT] had experienced mitral annular calcification ("MAC") (id. At 9, question 8).

4. The AHP Settlement Trust determined that the Estate was eligible for Matrix B-1, Level V benefits. Final Determination Letter after Contest, dated [DATE]. The Trust placed the Claim on Matrix B-1 rather than A-1, as requested by the Estate, because under the Settlement Agreement, as amended, Section IV.B.2.d(2)(c) pages 48-51, [APPELLANT] had experienced both an acute myocardial infarction "associated with acute mitral regurgitation" and MAC. The presence of those conditions constituted "reduction factors" under that Section requiring assignment of the claim to Matrix B-1.

5. On [DATE], an Appeal to District Court From Trustees' and/or Claims Administrator's Determination of Benefits ("Appeal") was filed by [APPELLANT]. The Court, on [DATE], referred the Appeal to the Chair of the Arbitration Panel.

ANALYSIS

1. [APPELLANT], in effect, asks the Arbitrator to ignore the presence of the reduction factors, while apparently conceding that if the reduction factors were applied, the Claim would be assigned to Matrix B. Appellant's Statement of the Case, dated [DATE].

2. The Estate's argument in the Appellant's Statement of the Case for why the Arbitrator should do so is as follows:

- The Trust failed to "further consider" a "Supplemental Statement," dated [DATE], submitted by [APPELLANT]'s attending physician.
- In the Supplemental Statement, the attending physician states that when [APPELLANT] was examined in [DATE], before her acute myocardial infarction, both a systolic murmur and MAC were present. The attending physician observed that a systolic murmur "can be a sign of mitral valve regurgitation," but that MAC can "mask the ability to diagnose mitral valve regurgitation" unless a trans-esophageal echocardiogram is done, and that no such echocardiogram was done until after the infarction in August.
- The Appellant's Statement concludes that " it is just as likely that her mitral valve regurgitation was severe prior to the myocardial infarction, and, thus was related to Redux ingestion."
- Therefore, the Claim belongs in Matrix A-1.

3. The [APPELLANT] argument is unconvincing. First of all, it does not address the significance of the presence of MAC. The presence of MAC is itself a reduction factor sufficient to move a claim to Matrix B-1, regardless of whether severe mitral regurgitation existed before or after the acute myocardial infarction. If the GREEN FORM reports that MAC is present, and the echocardiogram confirms its presence, the Claim must be assigned to Matrix Level B-1. This appeal may be denied on that ground alone.

4. Second, even if there were no MAC requiring reduction to Matrix B-1, the Estate's argument with respect to the relationship between the alleged "severe" mitral regurgitation and the acute myocardial infarction is unsupported. The Estate seems to be arguing that because "severe" mitral regurgitation *may* have existed before the acute myocardial infarction, that infarction was not "associated" with the "acute mitral regurgitation" detected after the infarction, and hence was not a reduction factor. This argument fails because The Estate has not established that "severe" mitral regurgitation actually antedated the infarction. The Supplemental Statement does not even state a

probability that it existed; it suggests, at most, a possibility.

5. The attending physician's conclusion in the Supplemental Statement that "[to] a reasonable degree of medical probability, it is conceivable that the patient's use of the diet medication Redux contributed to the worsening of the mitral valve regurgitation" is of no help to the Estate. First, it is irrelevant to the issue in the appeal, which is whether one of the reduction factors was present. Second, under the Settlement Agreement, it is immaterial whether an expert believes that the use of the Diet Drugs "contributed" to the Claimant's condition.

6. Finally, insofar as the Appellant's Statement of the Case seems to be suggesting that the Trust failed to consider the severity of [APPELLANT]'s mitral regurgitation when it placed the Claim on Matrix B-1, it is incorrect. Regardless of the severity of the regurgitation, the Claim must be placed on Matrix B-1 when reduction factors are present, as they were in this case. The Trust responded to the severity of [APPELLANT]'s mitral regurgitation by awarding Level V benefits, the highest level possible.

CONCLUSION

1. The Trust's Final Determination was not clearly erroneous. The Estate is not entitled to a Matrix A-1/Level V Benefit.
2. The Trust's Final Determination is affirmed.

Date

REDACTED
Arbitrator