

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

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| 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: REDACTED | : | REPORT AND AWARD |
| Arbitration No: REDACTED | : | OF ARBITRATOR |
| Claim No.: REDACTED | : | |

FINDINGS OF FACT

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

2. On [DATE] [APPELLANT] 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 [DATE] the claim of [APPELLANT] was referred by the Court to Arbitration pursuant to VI.c.4.(h) & (i) or VI.b.1.(f) & (g) of the Nationwide Class Action Settlement Agreement with American Home Products Corporation.

4. On [DATE] an Arbitration Hearing was held on the claim of [APPELLANT].

5. [APPELLANT'S] GREEN FORM, dated [DATE], indicated that he/she had mild mitral valve regurgitation and moderate aortic

valve regurgitation (question C.3.A and B).

6. **[APPELLANT'S]** GREEN FORM indicated that he/she had an ejection fraction of between 50% - 60% (question F.8).

7. **[APPELLANT'S]** GREEN FORM indicated that he/she did not have Pulmonary Hypertension secondary to severe aortic valve regurgitation or to moderate or greater mitral valve regurgitation (question F.2 and 3).

8. Subsequent to the filing of his/her GREEN FORM, **[APPELLANT]** submitted to the Trust a letter dated **[DATE]** signed by **[DOCTOR]**, M.D., F.A.C.C., the physician who signed the Doctor's Evaluation Form portion of his/her GREEN FORM on **[DATE]**. **[DOCTOR'S]** letter of **[DATE]** contained certain statements apparently inconsistent with his representations on the Doctor's Evaluation Form, specifically, assertions that: (1) one of his/her echocardiograms "documented at least moderate mitral regurgitation;" and (2) "the patient had at least moderate pulmonary hypertension present."

9. As a document separate from the GREEN FORM, **[DOCTOR'S]** Letter of **[DATE]** was not itself certified by the type of declaration which **[DOCTOR]** provided when he completed the Doctor's Evaluation Form.

10. The Trust made its determination that **[APPELLANT]** had no entitlement to Matrix Compensation Benefits on the basis of the GREEN FORM information set forth in paragraphs 5,6 and 7 above with respect to his/her levels of aortic and mitral valve regurgitation; his/her ejection fraction; and the absence of

Pulmonary Hypertension secondary to severe aortic valve regurgitation or moderate or greater mitral valve regurgitation.

11. **[APPELLANT]** argues that the Trust should have made its determination on the basis of **[DOCTOR'S]** Letter and the data contained in the echocardiograms to which he refers in that letter.

ANALYSIS

1. The Settlement Agreement that governs this matter presumes that the Trust will make its determinations on the basis of the information provided in the GREEN FORM (Settlement Agreement, as amended, section VI.C.4).

2. This requirement not only reflects an interest in efficient processing of claims on the basis of a single, uniform document, but in ensuring that data considered by the Trust has been submitted pursuant to a formal declaration, subject to the penalties of perjury, of the correctness of the information presented.

3. It was thus appropriate for the Trust to make its determination on the basis of the information provided in the GREEN FORM, and not on the basis of **[DOCTOR'S]** letter of **[DATE]**.

CONCLUSIONS

1. The Trust findings, as based on the information provided in **[APPELLANT'S]** GREEN FORM, are not clearly erroneous as set forth in Rule 5.

2. [APPELLANT] is not entitled to any Matrix Benefits at this time.

3. As acknowledged by the Counsel for the Trust during the [DATE] Arbitration Hearing, it is permissible for [APPELLANT] to file another GREEN FORM by December 31, 2015, according to the terms of the Settlement Agreement, without any prejudice arising from this arbitration proceeding, setting out such information as he/she deems relevant to establishing a claim for Matrix Benefits.

MARCH 12, 2002 _____

DATE

REDACTED, ESQUIRE
ARBITRATOR