

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

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

FINDINGS OF FACT

1. On [DATE] the Trustees of American Home Products Corporation denied the claim of [APPELLANT] for Matrix Compensation Benefits.

2. On [DATE] [APPELLANT] requested that the District Court refer this matter to arbitration.

3. On [DATE] the claim of [APPELLANT] was referred by the United States District Court for arbitration from the Trustees and/or claims administrator's denial of benefits to [APPELLANT].

4. On [DATE] a hearing was held on the arbitration claim of [APPELLANT].

ANALYSIS

1. Pharmacy records of [APPELLANT] reflect that she was dispensed Phentermine in July, August, September, October and December of 1996, Redux in March, May and June of 1997 and Pondimin in July, August, September, October and December of 1996.

2. [APPELLANT]'s Pink Form includes her statement that she took the Diet Drugs for 61 or more days (Pink Form, page 4, questions 8 and 9).

3. In the Green Form reference is made to an echocardiogram. The echocardiogram was performed on March 23, 2000. This is referred to on the Green Form, dated March 31, 2000, page 8, at questions C.2 and C.3.

4. The answer to question C. 3. B of the Green Form indicates that [APPELLANT]'s level of aortic regurgitation is mild.

CONCLUSIONS

1. The Trust findings are not clearly erroneous as set forth in Rule 5.

2. Based upon the findings above, [APPELLANT] is not entitled to any Matrix Benefits at this time because:
 - a. Matrix Level I benefits must be based on severe aortic regurgitation (Settlement Agreement, Section IV.B.2.C.(1)(a), page 36) or on other conditions that are not presented (Id., Section IV.B.2.C.(1)(a), page 36).

 - b. Matrix Level II benefits must be based on moderate or severe aortic regurgitation (Id., Section IV.B.2.C.(1)(a), pages 37-38).

3. 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), pages 39-45).

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

5. Claimant may later qualify for Matrix Level benefits if her condition becomes more severe

in ways that are defined by the Settlement Agreement. If an echocardiogram, taken and reviewed by a qualified physician as defined by the Settlement Agreement, reveals a Matrix Level

condition, then claimant may apply for benefits between now and 2015 by following the procedures stated in the Settlement Agreement which would include submission of a new green form.

January 21, 2002
DATE

_____/s/_____
ARBITRATOR