

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

FINDINGS OF FACT

1. [DATE], the AHP Settlement Trust tentatively denied the claim of [APPELLANT] for Matrix Compensation Benefits.

2. On [DATE], [APPELLANT] filed a supplemental claim based upon a second Echocardiogram performed during, and as part of, the AHP screening program.

3. On [DATE], the AHP Settlement Trust ("Trust") denied the supplemental claim of [APPELLANT] for Matrix Compensation Benefits.

4. On [DATE], [APPELLANT] filed an appeal from the denial of benefits by the Trust, requesting that the United States District Court ("Court") refer this matter to Arbitration.

5. On [DATE], the claim of [APPELLANT] 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.

6. On **[DATE]**, an Arbitration Hearing was held concerning the claim of **[APPELLANT]**.

ANALYSIS

1. According to Questions 8 and 9 of **[APPELLANT'S]** Pink Form, **[APPELLANT]** answered that he/she took Diet Drugs for 61 days or more.

2. Part II of the first Green Form was completed by Board-Certified Cardiologist, **[DOCTOR]**, on **[DATE]**. (See Green Form, pages 7 and 14).

3. The **[DATE]** Echocardiogram Report included in the claim file was prepared by **[DOCTOR]**, and was based on an Echocardiogram performed on **[DATE]**. This **[DATE]** Echocardiogram was referenced in section C.2 of the Green Form (See Green Form, page 8).

4. The answers to the questions in Section C.3.A and C.3.B of the Green Form and the attached report state that **[APPELLANT]** has no mitral valve regurgitation and that he/she has no aortic valve regurgitation. (See Green Form, page 8). The Findings section of the Echocardiogram report does state that there is: [3] "a trivial degree of aortic insufficiency...[;] [4]...no evidence for ...[mitral valve] insufficiency[;] [5] a trivial degree of tricuspid regurgitation...[; and 6] trivial pulmonic

insufficiency."

5. On [DATE], [APPELLANT] had another Echocardiogram performed in connection with the AHP screening program. This Echocardiogram was performed by [DOCTOR]. This second Echocardiogram revealed mild mitral regurgitation, mild tricuspid regurgitation and the aortic valve "appears structurally normal..."

6. [APPELLANT] submitted a second Green Form on or about [DATE] based on the [DATE] Echocardiogram. Board-Certified Cardiologist, [DOCTOR], completed Part II of the second Green Form. According to question C.3.A, [APPELLANT] has mild mitral regurgitation. Section C.3.B was left blank. According to the remaining answers completed by [DOCTOR], it does not appear that [APPELLANT] has any condition associated with his/her mitral or aortic valve that currently qualifies him/her for any Matrix-Level Benefits.

7. According to Questions 5 and 6 of the second Green Form, [APPELLANT] sought Matrix-Level I Benefits on the B-1 Matrix (See Green Form, page 4).

CONCLUSIONS

1. The Trust findings are not clearly erroneous as set forth in Rule 5 of the Rules Governing Arbitration Process.
2. [APPELLANT] has demonstrated mild mitral regurgitation.
3. Based upon the findings above, [APPELLANT] 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. As an eligible class member, should his/her mitral valve condition change in the future, demonstrated by a qualifying Echocardiogram and medical documentation, [APPELLANT] is entitled between now and December 31, 2015 to apply for Matrix-Level Benefits by submitting a Supplemental GREEN Form.

5. Based upon all of the above, [APPELLANT] is not presently entitled to any Matrix Benefits.

June 21, 2002
DATE

REDACTED, ESQUIRE
ARBITRATOR