

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. 1203
:
THIS DOCUMENT RELATES TO: :
:
SHEILA BROWN, ET AL. : CIVIL ACTION
:
v. : NO. 99-20593
:
AMERICAN HOME PRODUCTS CORPORATION :
:
:

PRETRIAL ORDER NO. 5929

AND NOW, this 3rd day of January, 2006, the court having received no objections pursuant to Pretrial Order No. 5889, dated December 9, 2005, it is hereby ORDERED that the revised procedures for the Eighth Amendment Mediation Program ("Mediation Procedures"), attached hereto as Exhibit A, are approved.

This Order supersedes Pretrial Order No. 5093, dated April 27, 2005, approving the previous version of the Mediation Procedures. Show cause proceedings for all Matrix claims currently in the Mediation Program shall remain stayed for sixty days from the date of this Order or until the Special Master is notified of a failed mediation, whichever occurs sooner.

BY THE COURT:

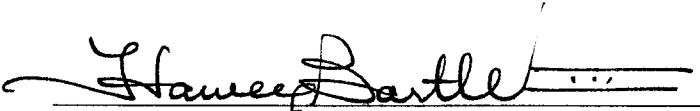

HARVEY BARTLE III, C.J.

EXHIBIT "A"

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

IN RE: DIET DRUGS (PHENTERMINE/ :
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EIGHTH AMENDMENT MEDIATION PROGRAM

A. INTRODUCTION

The Eighth Amendment to the Nationwide Class Action Settlement Agreement with American Home Products Corporation ("Settlement Agreement"), approved by the Court in Pretrial Order ("PTO") No. 3881, allows the AHP Settlement Trust ("Trust"), claimants, and Wyeth (collectively referred to as the "parties"), to resolve disputed Matrix claims in the show cause process through mediation. See PTO No. 3881 (Aug. 26, 2004). This document sets forth the rules and procedures for the mediation of disputed Matrix claims pursuant to the Eighth Amendment ("Mediation Procedures").

B. BACKGROUND

Generally, the Settlement Agreement provides for the payment of monetary benefits to claimants who are diagnosed with serious Valvular Heart Disease ("VHD"). To seek these benefits, which are known as Matrix Compensation Benefits, a claimant submits a completed, multi-part Green Form to the Trust. In Part II of the Green Form, a Board-Certified Cardiologist or Cardiothoracic

Surgeon answers a series of questions about the severity of the claimant's VHD.

Generally, all claims for Matrix Compensation Benefits ("Matrix claims") are subject to audit by the Trust. Based upon the audit results and other information necessary to determine a claimant's eligibility, the Trust determines whether the claimant is entitled to any Matrix Compensation Benefits under the Settlement Agreement. If, after this determination, a dispute remains between the Trust and the claimant as to the appropriate level of benefits due, the Trust must apply to the Court for an order directing the claimant to show cause why the Trust's determination is incorrect. Upon entry of an Order, the claim is referred to the show cause process for further proceedings. The Policies and Procedures for Audit and Disposition of Matrix Compensation Claims in Audit ("Audit Procedures") govern claims placed in Audit on or before December 1, 2002. See PTO No. 2457 (May 31, 2002). The Rules for the Audit of Matrix Compensation Claims ("Audit Rules") govern claims placed in Audit after December 1, 2002. See PTO No. 2807 (Mar. 26, 2003).

C. PURPOSE OF MEDIATION

The purpose of the Mediation Program is to provide the parties with an opportunity to reach a mutually acceptable resolution of

Matrix claims without the need for further litigation. The Mediation Program is a voluntary, non-binding process and is not meant to replace the show cause process. Rather, the Mediation Program provides an alternative method of resolution.

D. ELIGIBILITY

All claims currently in or eligible for the show cause process are eligible for the Mediation Program. The Trust, claimant, and/or Wyeth may at any time contact the other parties to request mediation for a claim or group of claims. If all parties agree that a claim or group of claims should be mediated, the parties must notify the Special Master. The parties are not bound by any mediation designations made under the Mediation Procedures approved in PTO No. 5093.

E. IMPACT OF MEDIATION ON SHOW CAUSE PROCESS

Once the Special Master is notified that the parties have agreed to mediate a claim or group of claims, all proceedings in the show cause process will be stayed for a period of sixty (60) days. An extension of the stay will be granted by the Special Master only upon a showing of good cause. A request for an extension must be made prior to the expiration of the original stay period. If mediation is unsuccessful, any party may notify the

Special Master and request that the stay of the show cause process be lifted. If after sixty (60) days the Special Master has received neither notification of a settlement, nor a request for an extension, the stay of the show cause process will be automatically lifted. The parties may continue settlement discussions after the stay is lifted.

F. THE MEDIATION PROCESS

The parties may communicate directly in an attempt to reach a resolution. In the event that all parties agree upon a resolution of a claim, the parties must notify the Special Master of the terms of the settlement in the form of a Notice of Agreement ("Notice"), attached hereto as Exhibit A. This Notice must be signed by all parties. All information in the Notice shall be treated as Confidential Information under PTO No. 2683 (Dec. 12, 2002), or any subsequent Order of the Court relating to Confidential Information.

G. CONFIDENTIALITY

All offers, promises, conduct and/or statements, whether oral or written, made during the course of negotiations by any party or their agent shall remain confidential. Such offers, promises, conduct and/or statements shall not be disclosed to third parties and are privileged and inadmissible for any purpose, including

impeachment, under Rule 408 of the Federal Rules of Evidence and any applicable federal or state statute, rule or common law provisions. Evidence, however, that is otherwise admissible or discoverable is not rendered inadmissible or not discoverable as a result of its use in the mediation.

H. POST-MEDIATION PROCESS

Wyeth, in its sole discretion, shall approve any payments to be made on claims in mediation. By signing the Notice of Agreement, Wyeth, the Trust and counsel for claimant certify that they agree with the terms of the settlement. Upon receiving a signed Notice, the Special Master will submit a Petition for Approval of Mediation Settlement ("Petition") to the Court, under seal, along with proposed Pretrial Orders approving the settlement. The Trust, Wyeth, Class Counsel, and counsel for claimant will each be served with a copy of the Petition. The Trust is authorized to pay such amounts as approved by the Court.

I. NECESSARY TERMS OF MEDIATED RESOLUTION

The resolution of any claim through mediation shall include specific terms relating to: (1) the amount to be paid by the Trust to the claimant and any derivative claimant in connection with the Matrix claim that was subject to the show cause process; (2) the

treatment to be afforded by the Trust to any other Matrix claim and/or Green Form that has been filed by the claimant or any derivative claimant with the Trust as of the date of the mediation; and (3) the treatment to be afforded by the Trust to any future claim for Matrix benefits submitted by the claimant or any derivative claimant.

J. DISTRIBUTION OF AGREED UPON PAYMENT AMOUNTS

Any payment of Matrix Compensation Benefits made by the Trust to a claimant under these Mediation Procedures shall be considered to be payment of Matrix Compensation Benefits under the Settlement Agreement. The Trust shall distribute the gross amount of compensation agreed upon in mediation in accordance with the requirements of Sections VI.C.4.e-n. of the Settlement Agreement relating to the payment of amounts due to subrogees and other third parties and the distribution of expense reimbursements and counsel fees, including appropriate deductions for payment of Common Benefit fees.

K. MODIFICATION OF THESE RULES

The Special Master may modify these rules as necessary for the effective implementation of the Mediation Program.

L. INCORPORATION OF THE SETTLEMENT AGREEMENT

All the terms of the Settlement Agreement, up to and including the Eighth Amendment and any subsequent amendments approved by the Court, are incorporated into the terms of the Mediation Program.