



**IN RE: SULZER HIP PROSTHESIS  
AND KNEE PROSTHESIS PRODUCT  
LIABILITY LITIGATION**

Notice of Special Master Determination

Martha Ash

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After a thorough review of the appeal submitted by the Appellant and the response submitted by the Appellee, the Special Master finds as follows:

The Special Master shall review Final Determinations only for an abuse of discretion by the Appellee, Claims Administrator.

By Order of the United States District Court, the Claims Administrator shall evaluate claims for EIF benefits according to the policies and procedures set forth in Claims Administrator Procedure ("CAP") 27.

Appellant's appeal indicates that she is appealing the Final Determination with respect to her EIF Matrix Level IV and Matrix Level IX claims. However, the Green Form submitted by the Appellant does not claim a Matrix Level IV injury and, in fact, there is a "N/A" written next to Matrix Level IV on the Green Form.

Appellee, Claims Administrator did not abuse his discretion in denying a Matrix Level IV claim that was never submitted.

There is no evidence supporting Appellant's Matrix Level IX claim. The Discharge Summary dated November 16, 2002 from Tampa General Hospital indicates that Appellant's APRS was in April 2001 and "the hip was fine until the day prior to admission [November 12, 2002]." The Addendum to that Discharge Summary states "the patient is doing well with tolerable discomfort and minimal medication use. This patient is ambulating independent without assistive devices." There were no medical records submitted with Appellant's appeal that indicate any kind of nerve injury, problems ambulating, or pain.

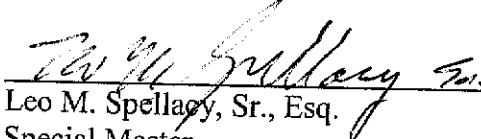
Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's Matrix Level IX claim.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level IV and IX claims is hereby AFFIRMED.

Appellant and Appellee have fifteen days from the date of this decision to file with the Court, for the Special Master's review, a fact or principle they believe the Special Master did not consider in rendering a decision. If no response is received by February 5, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 21, 2004  
Date

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Leo M. Spellacy, Sr., Esq.  
Special Master