

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: SULZER HIP PROSTHESIS)	Civil Action No.: 01-CV-9000
AND KNEE PROSTHESIS PRODUCT)	
LIABILITY LITIGATION)	ALL CASES
)	
<i>This document relates to:</i>)	(MDL No. 1401)
<i>Debbie L. Baker</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Debbie L. Baker, by and through her attorney John C. Schwambach, Jr., Esq. or the Law Firm Stevenson & Ammons (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated August 6, 2003 on Appellant’s claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his decision to award a net benefit amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant timely submitted an Orange Form seeking APRS benefits on or about October 31, 2003
2. Appellant submitted an untimely Blue Form seeking Unrevised APR benefits on June 4, 2003.
3. On March 14, 2003 Appellee issued a Preliminary Determination that Appellant was not eligible for APRS benefits because she had not proven that she had undergone a revision surgery.
4. On July 23, 2003 Appellee issued a Preliminary Determination that Appellant was not eligible for Unrevised APR benefits because her claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
5. On August 6, 2003 Appellee issued a Final Determination denying Appellant Unrevised APR benefits because her claim was not filed before the deadline, and APRS benefits because she has not undergone an APRS.

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LIABILITY LITIGATION**

Notice of Special Master Determination

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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:

Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's request for APRS benefits because she did not prove that she had undergone an Affected Product Revision Surgery.

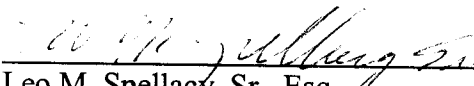
Appellee also did not abuse his discretion in denying Appellant's request for Unrevised APR benefits. The deadline for submitting the required application for Unrevised APR benefits (Blue Form) is September 5, 2002. Appellant submitted a Blue Form on June 4, 2003, approximately nine months after the deadline.

Appellant contends incomplete medical records prevented a timely filing. However, Section 4.6(a) of the Settlement Agreement explicitly allows Appellants to submit a Blue Form with incomplete medical records, and the Settlement Agreement has extensive provisions for supplementing deficient claims.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) 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 November 6, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

~~October 22, 2003~~
Date


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