

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

Notice of Special Master Determination

Margaret Keefe

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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.

On October 25, 2000 Appellant underwent a Covered Revision Surgery (CRS). In July 2002 and October 2002 Appellant underwent procedures for an infection that developed in her hip during 2002.

Appellant seeks EIF benefits from Matrix Level IX for the July 2002 and October 2002 procedures, which occurred nearly two years after her CRS.

CAP 27 § 13(a)(3) provides that "injuries contemplated by the Settlement Agreement or a CAP, but which are not compensable under the Settlement Agreement or the CAP in question, shall not be compensable pursuant to Matrix Level IX."

Annex IV-7 of the Settlement Agreement and CAP 27 anticipated and provided for infections requiring surgery. CAP 27 § 8(b) states "Wound infections which occur...more than one hundred eighty (180) days after a CRS, are not compensable from the EIF".

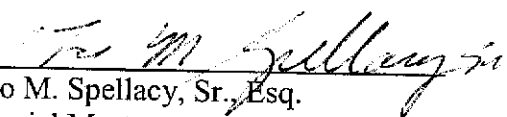
Since Appellant's infection was contemplated by Matrix Level IV, Appellee, Claims Administrator, did not abuse his discretion in denying this Matrix Level IX claim. In addition, since Appellant's infection occurred well after the 180 day deadline prescribed by the Settlement Agreement and CAP 27, she is not eligible for Matrix Level IV benefits.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level IX claim 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 January 23, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 8, 2004

Date


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