

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: SULZER HIP PROSTHESIS )  
AND KNEE PROSTHESIS PRODUCT ) Civil Action No.: 01-CV-9000  
LIABILITY LITIGATION ) ALL CASES  
)  
*This document relates to:* ) (MDL No. 1401)  
*Susan L. Meade* )  
) Judge Kathleen M. O'Malley

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Susan L. Meade, by and through her attorney Daniel L. Hannula, Esq. of the Law Firm Rush, Hannula, Harkins & Kyler, L.L.P. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated October 20, 2003 on Appellant's claim for Extraordinary Injury Fund ("EIF") benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his decision to award EIF benefits in the amount of Zero Dollars (\$0.00) to Appellant for one of her Matrix Level V claims.

The factual findings of this matter are as follows:

1. Appellant submitted two claims for EIF Matrix Level V benefits.
2. Appellant is eligible for EIF Matrix Level V benefits for a permanent nerve injury.
3. Appellant also seeks EIF benefits as a result of significant bone loss in her left hip.
4. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level V benefits for the significant bone loss.

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LIABILITY LITIGATION**

Notice of Special Master Determination

Susan L. Meade

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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 has provided a letter from her orthopedic surgeon that states "...there was significant bone loss in the hip and the medial wall of the acetabulum was quite thin. Therefore, if she should require surgery in the future, the reconstructive challenges would be substantially increased in comparison to a hip that had much less damage".

Possible future surgeries that Appellant may have to undergo are not eligible for compensation under the EIF in accordance with Cap 27 § 13 (a)(4) which states "Injuries or damages that have not occurred within the time periods allotted by the Settlement Agreement shall not be eligible for compensation."

In addition, Appellant is eligible for EIF benefits regarding a permanent nerve injury that requires her to use a cane, but she has not proven that she "experienced pain, sensory loss or gait alteration that required narcotics and/or use of a cane or walker" *as a result of the bone loss*, as required by Section 9(e) of CAP 27 and Annex IV of the Settlement Agreement.

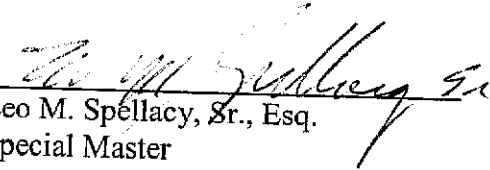
The Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's claim for EIF Matrix Level V benefits as a result of significant bone loss.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level V claim for significant bone loss 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