

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
2003 JUL 24 PM 2:55

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

Civil Action No.: 01-CV-9000

ALL CASES

*This document relates to:* )  
*Carmen Vasquez* )  
*Claim Number:* )

(MDL No. 1401)

Judge Kathleen M. O'Malley

**NOTICE OF SPECIAL MASTER DETERMINATION**

Carmen Vasquez, by and through her attorney, Carl A. McMahan, Esq. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated May 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 Settlement benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an Orange Form seeking APRS benefits and a Red Form seeking Uninsured APR benefits on July 15, 2002.
2. On August 29, 2002 Appellee issued Appellant a letter entitled "Claims Status Notification" which informed Appellant that in order to complete her Claim she was required to furnish proof of implantation of an Affected Product as required by Question 7 of the Orange Form.
3. On January 22, 2003 Appellee issued a Preliminary Determination denying Appellant's request for Settlement benefits because she had not proven implantation of an Affected Product.
4. Appellant submitted additional information and indicated that she was contesting the Preliminary Determination on January 31, 2003.
5. On May 6, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because she had not proven implantation of an Affected Product as required by the Settlement Agreement.

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Notice of Special Master Determination

Carmen Vasquez

Claim Number:

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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 and Uninsured APR benefits.

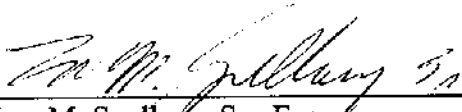
Appellant is entitled to these benefits only if she can demonstrate that she was implanted with an Affected Product by providing the lot number of said Affected Product.

The Appellee received Appellant's request for benefits and determined that the required Orange Form information was missing. Appellant was informed of the lack of appropriate evidence and failed to submit information proving implantation of an Affected Product.

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 August 8, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 24, 2003  
Date

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