

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Westchester Medical Center  
(Applicant)

AAA Case No. 17-15-1010-5589  
Applicant's File No.

- and -

Geico Insurance Company  
(Respondent)

Insurer's Claim File No. 0489325230101017  
NAIC No. 22055

**ARBITRATION AWARD**

I, Michael Achtziger, the undersigned arbitrator, designated by the American Arbitration Association pursuant to the Rules for New York State No-Fault Arbitration, adopted pursuant to regulations promulgated by the Superintendent of Insurance, having been duly sworn, and having heard the proofs and allegations of the parties make the following **AWARD**:

Injured Person(s) hereinafter referred to as: EIP

1. Hearing(s) held on 10/08/2015  
Declared closed by the arbitrator on 10/08/2015 16:10 PM

Joseph Henig, Esq., participated in person for the Applicant

Alicia Goulbourne, Claims Rep., participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 27,933.45**, was NOT AMENDED at the oral hearing.  
Stipulations WERE NOT made by the parties regarding the issues to be determined.

3. Summary of Issues in Dispute

Was Applicant's inpatient hospitalization from 10/13/14 to 10/19/14 reimbursable due to the EIP suffering injuries while operating an automobile on 10/13/14 in an intoxicated condition.

4. Findings, Conclusions, and Basis There for

Exhibits Viewed Online:

Respondent timely denied this bill based upon the EIP's intoxication.

Applicant contended entitlement to payment based upon Insurance Law 5103 b (2) which states "an insurer shall not exclude such person from coverage with respect to necessary emergency health services rendered in a general hospital pursuant to Public Health Law Section 2801, subsection 10, that section." Applicant contended that it is a general hospital.

Applicant further noted that Respondent's denial was defective on its face in not stating that these were not emergency health services. In any event, Applicant noted its following services were emergency health services:

An exploratory emergency laporotomy, bladder repair, repair of colonic serosal tear.

Applicant's counsel noted that Dr. Benatar confirmed the emergency nature of the hospitalization, and Applicant's counsel justified its mandated billing (Diagnostic related Group), and that a breakdown of charges is not required with Respondent obligated pursuant to 11 NYCRR 65-3.5(g) to accept an NF5 Form or an NF5 Form with a UBF-1. Counsel noted Respondent was sent a UB-04 and Master Output Report.

Finally, counsel noted that a split of the DRG to award only the emergency health care portion of the bill would release the DRG rate and create a balance due of \$51,746.00.

Accordingly, as Applicant has proven its entitled pursuant to law and its appropriate breakdown of charges. Applicant is awarded \$27,933.45.

5. Optional imposition of administrative costs on Applicant.  
Applicable for arbitration requests filed on and after March 1, 2002.

I do NOT impose the administrative costs of arbitration to the applicant, in the amount established for the current calendar year by the Designated Organization.

**6. I find as follows with regard to the policy issues before me:**

- ☐ The policy was not in force on the date of the accident
- ☐ The applicant was excluded under policy conditions or exclusions
- ☐ The applicant violated policy conditions, resulting in exclusion from coverage
- ☐ The applicant was not an "eligible injured person"
- ☐ The conditions for MVAIC eligibility were not met
- ☐ The injured person was not a "qualified person" (under the MVAIC)
- ☐ The applicant's injuries didn't arise out of the "use or operation" of a motor vehicle
- ☐ The respondent is not subject to the jurisdiction of the New York No-Fault arbitration forum

Accordingly, the applicant is AWARDED the following:

A.

	<b>Amount Claimed</b>	<b>Amount Awarded</b>
Medical	\$ 27,933.45	\$ 27,933.45
<b>TOTAL</b>	<b>\$ 27,933.45</b>	<b>\$ 27,933.45</b>

- B. The insurer shall also compute and pay the applicant interest as set forth below. (The filing date for this case was 04/21/2015 12:04 PM, which is a relevant date only to the extent set forth below.)

The insurer shall also compute and pay the applicant interest as set forth below:

Since the claim in question arose from an accident that occurred on or after April 5, 2002, the insurer shall compute and pay the Applicant the amount of interest computed from AR1 date to payment at the rate of 2% per month, simple, calculated on a pro rata basis using a 30 day month and ending with the date of payment of the award.

C. Attorney's Fees

The insurer shall also pay the applicant for attorney's fees as set forth below

The insurer shall also pay the Applicant for attorney's fees as set forth below:

This case is subject to the provisions as to the attorney's fees promulgated in the Sixth Amendment to 11 NYCRR 65.4 (Insurance Regulation 68D).

- D. The respondent shall also pay the applicant forty dollars (\$40) to reimburse the applicant for the fee paid to the Designated Organization, unless the fee was previously returned pursuant to an earlier award.

This award is in full settlement of all no-fault benefit claims submitted to this arbitrator.

State of New York

SS :

County of Nassau.

I, Michael Achtziger, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

10/25/2015  
(Dated)

Michael Achtziger

### **IMPORTANT NOTICE**

*This award is payable within 30 calendar days of the date of transmittal of award to parties.*

*This award is final and binding unless modified or vacated by a master arbitrator. Insurance Department Regulation No. 68 (11 NYCRR 65-4.10) contains time limits and grounds upon which this award may be appealed to a master arbitrator. An appeal to a master arbitrator must be made within 21 days after the mailing of this award. All insurers have copies of the regulation. Applicants may obtain a copy from the Insurance Department.*

## **ELECTRONIC SIGNATURE**

**Document Name:** Final Award Form  
**Unique Modria Document ID:**  
6fdb3666c383eefc8f74bfd2997a18c

### **Electronically Signed**

Your name: Michael Achtziger  
Signed on: 10/25/2015