American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

CityCare Physical Therapy PC (Applicant)	AAA Case No.	17-16-1033-5543
	Applicant's File No.	
- and -		
Liberty Mutual Insurance Company (Respondent)	Insurer's Claim File No.	LA000-031760894-03
	NAIC No.	36447

ARBITRATION AWARD

I, Lucille S. DiGirolomo, 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: Assignor

1. Hearing(s) held on 02/27/2017
   Declared closed by the arbitrator on 02/27/2017

   Edward Blinder, Esq. from the Law Firm of Edward Blinder, PLLC participated in person for the Applicant

   Charles Schreier, Claims Specialist from Liberty Mutual Insurance Company participated by telephone for the Respondent

2. The amount claimed in the Arbitration Request, **$ 740.64**, was AMENDED and permitted by the arbitrator at the oral hearing.

   At the hearing Applicant's counsel reduced the amount in dispute to $596.88 as more fully set forth below.

   Stipulations WERE NOT made by the parties regarding the issues to be determined.

3. Summary of Issues in Dispute

   In dispute is Applicant's billing in the reduced amount of $596.88 for an office visit and physical therapy sessions.

   Whether Respondent's denial based on a physical examination can be sustained.

4. Findings, Conclusions, and Basis Therefor

I have reviewed the documents contained in the ADR Center as of the date of the hearing in this matter and have considered all pertinent documents contained therein for the purpose of rendering this award. The parties did not make any additional submissions on the hearing date.

The Assignor was the driver of a motor vehicle involved in an accident on March 23, 2015. She came under the care of Gamil Saad Kostandy, M.D. on March 30, 2015 with complaints of headaches and pain in the neck, lower back and right shoulder. After examination, the Assignor was referred for physical therapy.

Applicant billed $120.00 for an office visit on September 4, 2015 and $77.58 for treatment on the same date. Applicant also billed $77.58 for seven additional physical therapy sessions from September 10 to October 28, 2015. At the hearing, Applicant's counsel reduced the bill for the office visit to $104.08 and reduced eight physical therapy sessions to $61.60.

It is noted the denial indicates the fees charged were in excess of the fee schedule. The services were performed in Region IV which has a conversion factor of 7.70 for self -employed physical therapists. Ground Rule 8 of the Physical Medicine Schedule contained in the Workers' Compensation Fee Schedule allows a self-employed physical therapist to bill for the initial evaluation utilizing CPT code 97001, which was done here. This Ground Rule further advises that the "maximum number of relative units (including treatment) when billing for an initial evaluation shall be limited to 13.5". A list of codes is then set forth that are subject to this rule. Applicant billed for codes 97010, 97014 and 97140 on the same date as the initial evaluation. These codes are subject to the 13.5 limit. Therefore, for the initial evaluation and treatment on August 25, 2015, Applicant is limited to reimbursement of $103.95 (13.5 x. 7.70). The remaining physical therapy treatments were properly reduced to $61.60.

Respondent timely denied Applicant's billing based on a physical examination performed by Robert Y. Pick, M.D. on July 8, 2015. As a result of this examination, benefits were terminated effective July 23, 2015.

Dr. Pick noted the Assignor's complaints of pain in the neck and mid back pain radiating to the extremities that was sharp in the right foot intermittently. The examination revealed decreased ranges of motion in the cervical spine and lumbar spine but normal ranges of motion in the right ankle and foot. He also noted "minimal tenderness to palpation" of the cervical, thoracic and lumbar paraspinal musculature. Dr. Pick then determined that cervical and lumbar spine sprains/strains and right foot sprain had resolved and there was no need for further orthopedic treatments. I do not find this examination sufficient to deny the claim herein.

Dr. Pick noted his range of motion readings were obtained with the assistance of a goniometer but does not explain why the positive examination findings should be disregarded when determining the need for further orthopedic care.

Accordingly, Applicant is awarded $535.15 in full satisfaction of this claim.

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.

	Amount Claimed	Amount Amended	Amount Awarded
Medical	$ 740.64	$ 596.88	$ 535.15
TOTAL	$ 740.64	$ 596.88	$ 535.15

B. The insurer shall also compute and pay the applicant interest as set forth below. (The filing date for this case was 04/27/2016, which is a relevant date only to the extent set forth below.)

   The insurer shall compute interest and pay the Applicant the amount of interest computed from the filing date as indicated above at the rate of 2% per month, simple, not compounded, calculated on a pro rata basis using a thirty 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 Respondent shall pay the Applicant an attorney's fee in accordance with 11 NYCRR 65-4.6(d) of 20 percent of the total amount of first-party benefits and any additional first-party benefits, plus interest thereon subject to a maximum fee of $1,360.00.

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 Queens

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

03/01/2017
(Dated)

Lucille S. DiGirolomo

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:
2fa061e5890dcfbb0bef71d4915b5332

Electronically Signed

Your name: Lucille S. DiGirolomo
Signed on: 03/01/2017