

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

RJR Medical PC
(Applicant)

- and -

Allstate Insurance Company
(Respondent)

AAA Case No. 17-15-1024-8787

Applicant's File No.

Insurer's Claim File No. 0281200955
2AT

NAIC No. 19232

ARBITRATION AWARD

I, Alina Shafranov, 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 03/01/2017, 04/04/2017
Declared closed by the arbitrator on 04/04/2017

Matthew Viverito, Esq. from Costella & Gordon LLP participated in person for the Applicant

Karen Stulgaitis, Esq. from Allstate Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 129.18**, 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

The Assignor, "GP", is a 38 year old female who was involved in a motor vehicle accident in which she was a passenger on March 31, 2013. She sought treatment for her injuries sustained in the MVA and eventually came under the care of Albert Ciancimino, M.D. Applicant seeks reimbursement for physical therapy treatment for dates of service 10/7/14-10/14/14. Respondent timely denied reimbursement for the claim based on the Independent Medical Examination (IME) by Anthony Spataro, M.D. performed on 12/4/13. At the hearing, Respondent's counsel made a good faith representation that the full policy limits of \$50,000.00 has been exhausted and thus there is no coverage for this claim.

4. Findings, Conclusions, and Basis Therefor

This case was decided on the submissions of the Parties as contained in the ADR Center maintained by the American Arbitration Association and the oral arguments of the parties' representatives. There were no witnesses at the hearing. I reviewed the documents contained in the ADR Center for both parties and make my decision in reliance thereon.

Applicant establishes a prima facie case of entitlement to reimbursement of its claim by the submission of a completed NF-3 form reflecting the amounts of the losses sustained and by submitting evidentiary proof that the prescribed statutory billing forms [setting forth the fact and the amount of the loss sustained] had been mailed and received and that payment of no-fault benefits were overdue. See, Mary Immaculate Hospital v. Allstate Insurance Company, 5 A.D.3d 742, 774 N.Y.S.2d 564 (2nd Dept. 2004). I find that Applicant established a prima facie case.

The threshold issue concerns whether the total coverage limits have been exhausted thereby barring Applicant's right to recovery for these bills. Regardless of the fact that Respondent issued a denial based on lack of medical necessity, the issue of policy exhaustion may be raised at any time. Respondent has submitted a copy of the policy declaration page as well as other records documenting the payment already made by Respondent in the form of a payment log. Respondent demonstrated that it provides \$50,000.00 of no-fault Basic PIP Coverage; that it has paid the policy limits in medical bills before the within arbitration. The prior claims listed in the Respondent's log of payments amount to the policy limits as the amount already paid. An insurer is not required to pay a claim where the policy limits have been exhausted, Mount Sinai Hospital v. Zurich American Insurance Co., 15 A.D.3d 55, 790 N.Y.S.2d 216 (2d Dept. 2005). With respect to policy exhaustion, an insurer is not required to pay a claim where the policy limits have been exhausted; its duties under the insurance contract cease where it has paid the full monetary limits. Hospital for Joint Diseases v. State Farm Mutual Automobile Ins. Co., 8 A.D.3d 533, 779 N.Y.S.2d 534 (2d Dept. 2004).

After reviewing all of the documents on file in the ADR Center maintained by the American Arbitration Association, and considering the arguments set forth by both sides, I find that due to sufficient documentary evidence and the good faith representation of Respondent that the \$50,000.00 limits of coverage have been exhausted, this claim is denied.

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 claim is DENIED in its entirety

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

05/04/2017
(Dated)

Alina Shafranov

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:
ae9374c212df9059497f80d965e31e14

Electronically Signed

Your name: Alina Shafranov
Signed on: 05/04/2017