

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Oksana Koreckaya L.A.C.
(Applicant)

- and -

Geico Insurance Company
(Respondent)

| | |
|--------------------------|------------------|
| AAA Case No. | 17-18-1098-9619 |
| Applicant's File No. | n/a |
| Insurer's Claim File No. | 0485146640101080 |
| NAIC No. | 35882 |

ARBITRATION AWARD

I, Jennifer Zeidner, 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: Claimant.

1. Hearing(s) held on 11/06/2019
Declared closed by the arbitrator on 11/06/2019

Jeffrey Datikashvili, Esq. from The Sigalov Firm PLLC participated in person for the Applicant

Jaime Drantch from Geico Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 467.04**, 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

Applicant seeks reimbursement of charges for acupuncture treatment on dates from 12/15/17-1/17/18, following a 10/27/17 motor vehicle accident. Respondent timely denied the bill on the basis that proof of claim was not submitted within 45 days after the services were rendered.

4. Findings, Conclusions, and Basis Therefor

I have reviewed all of the documents in the Electronic Case Folder which is maintained by the American Arbitration Association. This decision is based upon the documents reviewed as well as the arguments made by the parties' representatives at the arbitration hearing.

On 10/27/17, the claimant, a male then 36 years old, was allegedly injured in a motor vehicle accident. Thereafter, on dates from 12/15/17-1/17/18, the claimant received acupuncture treatment provided by the Applicant. Respondent's denial of claim dated 7/27/18 indicates it received the bill for services rendered on 12/15/17-1/17/18 on 7/2/18, and advises Applicant that payment is denied because written proof of claim was provided more than 45 days after the billed services were rendered but that late notice would be excused "where the applicant can provide reasonable justification of the failure to give timely notice."

The prescribed policy endorsement set forth at 11 NYCRR § 65.1.1 concerning proof of claim mandates that the "eligible injured person or that person's representative shall submit written proof of claim to the Company" as soon as reasonably practicable, but in no event later than forty five days after the date services are rendered. These "time limitations for the submission of proof of claim shall apply unless the eligible injured person or that person's representative submits written proof providing clear and reasonable justification for the failure to comply with such time limitation."

In support of its position that the bill was not timely received, Respondent has submitted an Affidavit by Veronica Herrera, a claims examiner employed by Respondent. Ms. Herrera attests that based upon her review of the no-fault claims file associated with this case and based upon her knowledge of the mailing and claims handling policies and procedures of GEICO, she knows it to be true that GEICO did not receive the disputed bill until 7/2/18. I find Ms. Herrera's Affidavit to be credible.

Applicant, however, maintains that it timely submitted the bill via facsimile on 1/22/18. Applicant submits a fax cover sheet referencing the claimant's name and the dates of service at issue. The cover sheet is addressed to GEICO with a fax number belonging to GEICO (856-294-5154) which was confirmed by a simple internet search. However, the fax confirmation sheet which purportedly indicates that the cover sheet and bills were successfully transmitted on 1/22/18, lists an entirely different fax number to which the items were sent (1-877-213-7258). A simple internet search reveals that this fax number actually belongs to Progressive Insurance, not GEICO.

Based upon the foregoing, I find that Respondent has established its 45-day defense. Applicant's claim is therefore 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, Jennifer Zeidner, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

12/30/2019

(Dated)

Jennifer Zeidner

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:
e19344459d41a338549ef49878819b96

Electronically Signed

Your name: Jennifer Zeidner
Signed on: 12/30/2019