

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Derek Lezama D.C., P.C
(Applicant)

- and -

Allstate Insurance Company
(Respondent)

AAA Case No. 17-20-1166-5267

Applicant's File No. none

Insurer's Claim File No. 0547871995

NAIC No. 19232

ARBITRATION AWARD

I, Glen Wiener, 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 10/20/2020
Declared closed by the arbitrator on 10/20/2020

Anna Goldman, Esq. from Law Office of Anna Goldman P.C. participated by telephone for the Applicant

Suzana G. Sustic, Esq. from Law Offices Of Karen L. Lawrence participated by telephone for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 305.32**, 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

Assignor D.L. a 46-year-old female was injured in an automobile accident on May 31, 2019. From June 19 through July 29, 2016 Applicant Derek Lezama, D.C., P.C. provided chiropractic services to Assignor. Respondent paid the claim but reduced Applicant's fee based on a preferred provider organization [PPO] agreement. The alleged PPO agreement was not submitted. The sole question presented is whether Respondent established Applicant was a party to a PPO agreement.

4. Findings, Conclusions, and Basis Therefor

The decision below is based on the documents on file in the Electronic Case Folder maintained by the American Arbitration Association as of the date of this hearing and on oral arguments of the parties. No witness testimony was produced at the hearing.

Assignor D.L. a 46-year-old female was injured in an automobile accident on May 31, 2019. From June 19 through July 29, 2016 Applicant Derek Lezama, D.C., P.C. provided chiropractic services to Assignor.

Applicant as assignee of D.L. seeks \$305.32 additional reimbursement, with interest and counsel fees, under the No-Fault Regulations, for the chiropractic services provided to Assignor from June 19 through July 29, 2016.

Respondent Allstate Insurance Company insured the motor vehicle involved in the automobile accident. Under New York's Comprehensive Motor Vehicle Insurance Reparation Act (the "No-Fault Law"), New York Ins. Law §§ 5101 et seq., Respondent was obligated to reimburse the injured party (or her assignee) for all reasonable and necessary medical expenses arising from the use or operation of the insured vehicle.

Applicant billed \$14.16 for CPT 97014, \$16.70 for CPT 97110, and \$26.41 for CPT 98940. Respondent only reimbursed Applicant \$12.04 for CPT 97014, \$14.20 for CPT 97110, and \$13.07 for CPT 98940 averring:

The allowance for this service was calculated in accordance with your Coventry auto provider contract. For questions regarding this allowance, please call Coventry at (800) 937-6824. Note regarding KY providers. Pursuant to contractual arrangements with provider networks, any re-pricing of charges constitutes a reduction by negotiation in conjunction with KY Revised Statutes Sec. 304.39-245 and 250.

Respondent failed to submit any evidence establishing Applicant was a party to any preferred provider organization agreement.

Accordingly, Respondent's unsupported denial is vacated and Applicant is awarded \$305.32 additional reimbursement for the services provided. This award is in full disposition of all No-Fault benefit claims submitted to this arbitrator.

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.

Medical		From/To	Claim Amount	Status
	Derek Lezama D.C., P.C	06/19/19 - 07/29/19	\$305.32	Awarded: \$305.32
Total			\$305.32	Awarded: \$305.32

- B. The insurer shall also compute and pay the applicant interest set forth below. 05/27/2020 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Since the motor vehicle accident occurred after Apr. 5, 2002, interest shall be calculated at the rate of two percent per month, simple, calculated on a pro rata basis using a 30-day month. 11 NYCRR §65-3.9(a). If an applicant does not request arbitration or institute a lawsuit within 30 days after receipt of a denial of claim form or from the payment of benefits, interest shall not accumulate on the disputed claim or element of claim until such action is taken. 11 NYCRR §65-3.9 (c).

In accordance with 11 NYCRR §65-3.9(c), interest shall be paid on the claim from above noted date, which according to the timeline in the ECF is the date the arbitration was filed with the American Arbitration Association.

C. Attorney's Fees

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

In accordance with 11 NYCRR §65-4.6(c), the insurer shall pay Applicant an attorney's fee equal to 20% of the total amount awarded in this proceeding plus interest, with NO MINIMUM FEE and the maximum fee capped at \$1,360.

- 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 New York

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

10/20/2020
(Dated)

Glen Wiener

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:
b44010cc1ff60fe190af169a428b41f8

Electronically Signed

Your name: Glen Wiener
Signed on: 10/20/2020