

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

ATP Physical Therapy, PC (Applicant)	AAA Case No.	17-19-1119-4795
- and -	Applicant's File No.	GS-591475, GS-618060, GS-622851, GS-635255
Allstate Insurance Company (Respondent)	Insurer's Claim File No.	0407121870
	NAIC No.	29688

### ARBITRATION AWARD

I, Maureen Callahan, 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 04/27/2021  
Declared closed by the arbitrator on 04/27/2021

M Sledzinski from Law Offices Of Gabriel & Shapiro, LLC. participated in person for the Applicant

Adam Kass from Peter C. Merani Esq. participated in person for the Respondent

2. The amount claimed in the Arbitration Request, \$ 376.32, was AMENDED and permitted by the arbitrator at the oral hearing.

The claim is amended; applicant seeks \$258.52.

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

3. Summary of Issues in Dispute

Case summary

The applicant, and assignee of the EIP, a 40-year-old male, seeks reimbursement for physical therapy performed subsequent to a motor vehicle accident of 3/9/16. The claim was denied based upon an IME by Dr. Hillsman.

#### 4. Findings, Conclusions, and Basis Therefor

The accident occurred on 3/9/16. Due to the coronavirus pandemic, the case was handled via zoom with both sides appearing and arguing their position. In addition to the oral arguments, a review of the documents contained in the electronic case folder is considered in rendering a determination on this matter.

This claim seeks reimbursement for physical therapy sessions performed from 6/15/17 through 10/19/17.

The medical records contained in the electronic case folder include an initial evaluation from Rockwood Medical Health of 3/21/16. It indicates that the 40-year-old male was a seatbelted driver when he was involved in the accident on 3/9/16. He was taken to Lincoln Hospital by ambulance where he was examined, treated, and released. He presented 12 days post accident with complaints of headache, neck pain with numbness, and low back pain. An examination was performed. The doctor provided naproxen and Flexeril. He referred the EIP for an orthopedic and neurological consult. He recommended physical therapy, and MRIs of the cervical, lumbar sacral spine and brain. This claim seeks reimbursement for the physical therapy performed from 6/15/17 through 10/19/17.

The timeliness of the denial is not disputed. Dr. R. Hillsman performed an orthopedic exam on 11/3/16 terminating benefits effective 11/28/16. He told the doctor about his trip to the emergency room at Lincoln Hospital. He reported following up with physical therapy, chiropractic care, acupuncture, and massage therapy. He was employed as a security guard at the time of the accident and was working full-time at the time of the IME. At the IME, the EIP advises chief complaints were of neck, left shoulder, low back, and bilateral knee pain. Those body parts were examined. After thorough examination the doctor opined that cervical and thoracic, lumbar spine sprains and strains had resolved, and that bilateral knee strains and left shoulder strains had resolved. The doctor opined that there was no evidence of any orthopedic disability and that the EIP was able to perform all activities of daily living without restriction. Applicant does note that at the IME, there was a diminution of flexion of 10° and extension limited in 5° to the lumbar spine. I am provided the physical therapy soap notes that note the EIP had continued pain at each session. Applicant argues that in 17 - 17 - 1075 - 3201, arbitrator Claire Gallagher in a decision of 8/17/18, found a denial for therapy based on this IME to be insufficient. She noted that the IME had positive findings, which indicate that the injuries had not resolved.

I have listened to the arguments and evaluated the evidence. It is a question of fact as to the necessity of these additional six sessions of physical therapy. In the instant matter I find that the applicant's arguments and IME are sufficiently strong such that an award in applicant's favor is warranted. It is noted on the service dates 10/5--10/19/17, payment has been issued but respondent concedes \$7.64 is due on this bill. Award to applicant for the amended sum: \$258.52.

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	Amount Amended	Status
	ATP Physical Therapy, PC	06/15/17 - 06/15/17	\$62.72	\$62.72	Awarded: \$62.72
	ATP Physical Therapy, PC	08/17/17 - 08/17/17	\$62.72	\$62.72	Awarded: \$62.72
	ATP Physical Therapy, PC	09/05/17 - 09/21/17	\$125.44	\$125.44	Awarded: \$125.44
	ATP Physical Therapy, PC	10/05/17 - 10/19/17	\$125.44	\$7.64	Awarded: \$7.64
<b>Total</b>			<b>\$376.32</b>		<b>Awarded: \$258.52</b>

B. The insurer shall also compute and pay the applicant interest set forth below. 02/13/2019 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Interest to be paid from the date of filing the demand for arbitration.

C. Attorney's Fees

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

Attorney fee to be paid in accordance with 11 NYCRR 65-4.2

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 NY

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

04/30/2021  
(Dated)

Maureen Callahan

### **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:**  
4cff532996b63d6d34a278a2aed1174a

**Electronically Signed**

Your name: Maureen Callahan  
Signed on: 04/30/2021