

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Five Elements Acupuncture PC
(Applicant)

- and -

LM General Insurance Company
(Respondent)

AAA Case No.	17-21-1192-2431
Applicant's File No.	238766
Insurer's Claim File No.	LA000-037858068-01
NAIC No.	36447

ARBITRATION AWARD

I, Frank Marotta, 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-JV

1. Hearing(s) held on 08/03/2021
Declared closed by the arbitrator on 08/03/2021

Kevin D'Arcy, Esq. from Demetrios A. Bothos, Esq. participated in person for the Applicant

Melissa Coppola, Esq. from LM General Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 5,391.56**, was NOT AMENDED at the oral hearing.
Stipulations WERE made by the parties regarding the issues to be determined.

The parties stipulate and agree that the Applicant established its prima facie burden, the Respondent timely paid and/or denied the claim in question and the Applicant is entitled to reimbursements based on the New York State Workers' Compensation Chiropractic Fee Schedule (WCCFS) for the services provided and agrees to the amendments to the charges.

3. Summary of Issues in Dispute

The record reveals that the EIP-JV a 23-year-old-female, sustained injuries in a motor vehicle accident on 6/10/18.

The Applicant filed arbitration seeking reimbursed for acupuncture treatment between 6/29/18 and 11/20/19.

The Respondent reimbursed and/or denied the claim based on the WCCFS and the failure of the EIP to appear for IMEs.

The issue for determination is whether the Respondent properly reimbursed the Applicant for their services based on the WCCFS and whether they properly denied the claims based on the failure of the EIP to appear for scheduled IMEs.

4. Findings, Conclusions, and Basis Therefor

The Applicant filed this arbitration in the amount of \$5,391.56 for disputed acupuncture treatment between 6/29/18 and 11/20/19.

This hearing was conducted using the documents contained in the Electronic Case Folder (ECF) maintained by the American Arbitration Association. All documents contained in the ECF are made part of the record of this hearing and my decision was made after a review of all relevant documents found in the ECF as well as the arguments presented by the parties during the hearing. In accordance with 11 NYCRR 65-4.5(o) (1), an arbitrator shall be the judge of the relevance and materiality of the evidence and strict conformity of the legal rules of evidence shall not be necessary. Further, the arbitrator may question or examine any witnesses and independently raise any issue that Arbitrator deems relevant to making an award that is consistent with the Insurance Law and the Department Regulations.

DOS: 6/29/18 - 7/11/18

The Applicant billed \$104.72 for an initial acupuncture evaluation on 6/29/18 using CPT Code 99203. The Applicant's bill also contains charges in the amount of \$32.87 for an initial 15 minutes of acupuncture treatment with stim billed using CPT Code 97813, \$28.56 for additional 15 minutes sessions of acupuncture treatment with stim billed using CPT Code 28.56, \$25.00 for infrared heat treatments billed using CPT Code 97026 and \$25.00 for what is designated on the bill as acupressure, cupping, daoyin, etc. using CPT Code 97139.

The Respondent provided proof that they reimbursed the Applicant for the initial acupuncture evaluation and needle acupuncture treatments as billed but reimbursed the infrared heat treatment and the acupressure, cupping, daoyin services in reduced amounts (\$14.68 for the infrared and \$16.70 for the acupressure, cupping, daoyin services) in accordance with the New York Workers' Compensation Chiropractic Fee Schedule (WCCFS).

The Applicant acknowledged the reimbursement on the AR form and further acknowledges that the Applicant would only be entitled to a reimbursement in the

amount of \$14.68 for services billed using CPT Code 97026 (Infrared heat treatment) and \$16.70 billed using CPT Code 97139 (cupping acupressure, daoyin, etc.). Based on the proof provided, what is acknowledged as paid on the AR form and what is agreed between the parties as to fee due under the WCCFS for codes 97026 and 97139 I find that the Applicant has been fully reimbursed for the services between 6/29/18 and 7/11/18.

DOS: 7/13/18 - 7/20/18

The Applicant billed \$32.87 for an initial 15 minutes of acupuncture treatment with stim billed using CPT Code 97813, \$28.56 for additional 15 minutes sessions of acupuncture treatment with stim billed using CPT Code 28.56, \$25.00 for infrared heat treatments billed using CPT Code 97026 and \$25.00 for what is designated on the bill as acupressure, cupping, daoyin, etc. using CPT Code 97139.

The Respondent provided proof that they reimbursed the Applicant for the needle acupuncture treatment as billed but reimbursed the infrared heat treatment and the acupressure, cupping, daoyin services in reduced amounts (\$14.68 for the infrared and \$16.70 for the acupressure, cupping, daoyin services) in accordance with the New York Workers' Compensation Chiropractic Fee Schedule (WCCFS).

The Applicant acknowledged the reimbursement on the AR form and further that the Applicant was properly reimbursed the reduced amounts for services billed using codes 97026 (Infrared heat treatment) and 97139 (cupping acupressure, daoyin, etc.).

Based on the proof provided, what is acknowledged as paid on the AR form and what is agreed between the parties as to fee due under the WCCFS for codes 97026 and 97139 I find that the Applicant has been fully reimbursed for the services between 7/13/18 and 7/20/18.

DOS: 7/25/18 - 8/7/18

The Applicant billed \$32.87 for an initial 15 minutes of acupuncture treatment with stim billed using CPT Code 97813, \$28.56 for additional 15 minutes sessions of acupuncture treatment with stim billed using CPT Code 28.56, \$25.00 for infrared heat treatments billed using CPT Code 97026, \$25.00 for what is designated on the bill as acupressure, cupping, daoyin, etc. using CPT Code 97139 and \$60.00 for acupuncture reevaluation using CPT Code 99213.

The Respondent provided proof that they reimbursed the Applicant for the needle acupuncture treatment as billed but reimbursed the infrared heat treatment and the acupressure, cupping, daoyin services in reduced amounts (\$14.68 for the infrared and \$16.70 for the acupressure, cupping, daoyin services) in accordance with the New York Workers' Compensation Chiropractic Fee Schedule (WCCFS). Respondent also reimbursed Applicant \$26.41 for the reevaluation billed in accordance with the WCCFS.

The Applicant acknowledged the reimbursement on the AR form and further that the Applicant was properly reimbursed the reduced amounts for services billed using codes

97026 (Infrared heat treatment), 97139 (cupping acupressure, daoyin, etc.) and the reevaluation billed using CPT Code 99213.

Based on the proof provided, what is acknowledged as paid on the AR form and what is agreed between the parties as to fee due under the WCCFS for codes 97026, 97139 and 99213 I find that the Applicant has been fully reimbursed for the services between 7/25/18 and 8/7/18.

DOS: 8/14/18 - 8/27/18

The Applicant billed \$32.87 for an initial 15 minutes of acupuncture treatment with stim billed using CPT Code 97813, \$28.56 for additional 15 minutes sessions of acupuncture treatment with stim billed using CPT Code 28.56, \$25.00 for infrared heat treatments billed using CPT Code 97026, \$25.00 for what is designated on the bill as acupressure, cupping, daoyin, etc. using CPT Code 97139 and \$60.00 for acupuncture reevaluation using CPT Code 99213.

The Respondent provided proof that they reimbursed the Applicant for the needle acupuncture treatment as billed but reimbursed the infrared heat treatment and the acupressure, cupping, daoyin services provided on 8/14/18 in reduced amounts (\$14.68 for the infrared and \$16.70 for the acupressure, cupping, daoyin services) in accordance with the New York Workers' Compensation Chiropractic Fee Schedule (WCCFS). The Respondent also reimbursed Applicant for the acupuncture treatment as billed for the dates of service 8/22/18 and 8/27/18 but denied reimbursement of the codes 97026 and 97139 in their entirety noting "*When multiple physical medicine procedures/modalities are performed on same day reimbursement may not exceed 8.0 units pursuant to NYS Fee Schedule. Code(s) 97026 97139 98941 97010 were reimbursed at a total of 8 units*" Respondent also reimbursed Applicant \$26.41 for the reevaluation performed on 8/22/18 in accordance with the WCCFS.

In support of the of codes 97026 and 97139 Respondent submits a letter from Gina Ball, RN, CCM, CPC dated 2/16/21 addressing various fee schedule issues. Ms. Ball's letter does not address the 8-unit defense. More importantly, it does not discuss, nor does the Respondent provide any evidence that they paid another healthcare providers for the codes listed in the denial in support of its fee schedule defense.

Respondent has the burden of coming forward with competent evidentiary proof to support its fee schedule defenses. St. Vincent Medical Care PC v. Countrywide Insurance Company, 26 Misc. 3d 146 (A), 907 NYS 2d 441 (App. Term 2d, 11th and 13th Dists. 2010); Robert Physical Therapy PC v. State Farm Mutual Auto Ins. Co., 2006 NY Slip 26240, 13 Misc.3d 172, 822 N.Y.S.2d 378, 2006 N.Y. Misc. LEXIS 1519 (Civil Ct, Kings Co. 2006); Power Acupuncture PC v. State Farm Mutual Automobile Ins. Co., 11 Misc.3d 1065A, 816 N.Y.S.2d 700, 2006 NY Slip Op 50393U, 2006 N.Y. Misc. LEXIS 514 (Civil Ct, Kings Co. 2006). If Respondent fails to provide such proof their defense of noncompliance cannot be sustained. First Aid Occupational Therapy, PLLC v. Country-Wide Ins. Co., 26 Misc.3d 135(A), 907 N.Y.S.2d 100 (Table), 2010 N.Y. Slip Op. 50149 (U), 2010 WL 376835 (App. Term 2d, 11th & 13th Dists. Jan. 29, 2010); Continental Medical PC v. Travelers Indemnity Co., 11 Misc.3d 145A, 819

N.Y.S.2d 847, 2006 NY Slip Op 50841U, 2006 N.Y. Misc. LEXIS 1109 (App. Term, 1st Dept, per curiam, 2006).

Considering the proof provided and the agreement between the parties as to the fees due, I find that the Applicant is entitled to be reimbursed for the charges billed using CPT Codes 97026 in the amount of \$14.68 and 97139 in the amount of \$16.70 for the dates of service 8/22/18 and 8/27/18. Applicant is awarded \$62.76.

DOS: 8/28/18 - 9/14/18

For similar reasons noted above, and for the reason behind awarding the Applicant the fees for services billed on 8/22/18 and 8/27/18 using CPT Codes 97026 and 97139, I find Applicant is entitled to be reimbursed for similar services provided on 8/28/18, 8/31/18 and 9/14/18. These services were denied based on the 8-unit rule, but Respondent has not provided sufficient proof in support of such a denial. Applicant is awarded \$94.14 for these services provided on 8/28/18, 8/31/18 and 9/14/18. All other services were reimbursed according to the WCCFS and acknowledged on the AR form by Applicant.

DOS: 9/19/18 - 10/5/18

For similar reasons noted above, and for the reason behind awarding the Applicant the fees for services billed on 8/22/18 and 8/27/18 using CPT Codes 97026 and 97139, I find Applicant is entitled to be reimbursed for similar services provided on 9/19/18, 9/28/18 and 10/5/18. These services were denied based on the 8-unit rule, but Respondent has not provided sufficient proof in support of such a denial. Applicant is awarded \$94.14 for these services provided on 9/19/18, 9/28/18 and 10/5/18. All other services were reimbursed according to the WCCFS and acknowledged on the AR form by Applicant.

DOS: 10/10/18 - 11/6/18

The Applicant billed \$32.87 for an initial 15 minutes of acupuncture treatment with stim billed using CPT Code 97813, \$28.56 for additional 15 minutes sessions of acupuncture treatment with stim billed using CPT Code 28.56, \$25.00 for infrared heat treatments billed using CPT Code 97026 and \$25.00 for what is designated on the bill as acupressure, cupping, daoyin, etc. using CPT Code 97139. The Applicant also billed \$60.00 for a reevaluation using CPT Code 99213.

The Respondent provided proof that they reimbursed the Applicant for the needle acupuncture treatment as billed through 10/19/18. The initial 15 minutes of acupuncture treatment billed on 11/6/18 was reduced to the permissible fee (\$22.48) allowable under the WCCFS for such treatment but reimbursed the additional 15 minutes as billed. Respondent denied reimbursement of the codes 97026 and 97139 based on the 8-unit ground rule. Respondent also reimbursed Applicant \$26.41 for the reevaluation on 10/10/18, a fee acceptable to Applicant.

For similar reasons noted above, and for the reason behind awarding the Applicant the fees for services billed on 8/22/18 and 8/27/18 using CPT Codes 97026 and 97139, I find Applicant is entitled to be reimbursed for similar services provided on 10/10/18, 10/16/18, 10/19/18 and 11/6/18. As noted, these services were denied based on the 8-unit rule, but Respondent has not provided sufficient proof in support of such a denial. Applicant is awarded \$125.52 for these services provided on 10/10/18, 10/16/18, 10/19/18 and 11/6/18. All other services were reimbursed according to the WCCFS and acknowledged on the AR form by Applicant.

DOS: 11/7/18 - 11/27/18

The Applicant billed \$32.87 for an initial 15 minutes of acupuncture treatment with stim billed using CPT Code 97813, \$28.56 for additional 15 minutes sessions of acupuncture treatment with stim billed using CPT Code 28.56, \$25.00 for infrared heat treatments billed using CPT Code 97026 and \$25.00 for what is designated on the bill as acupressure, cupping, daoyin, etc. using CPT Code 97139. The Applicant also billed \$60.00 for a reevaluation using CPT Code 99213.

The Respondent provided proof that they reimbursed the Applicant for the needle acupuncture treatment pursuant to the WCCFS (\$22.48 for the initial 15 minutes and \$19.54 for each additional 15 minutes of treatment). Respondent also reimbursed Applicant \$26.41 for the reevaluation on 11/27/18. Respondent denied the services on 11/7/18, 11/9/18 and 11/13/18 billed using CPT Codes 97026 and 97139 based on the 8-unit rule. Respondent reimbursed the Applicant for these services on 11/27/18 pursuant to the WCCFS.

For similar reasons noted above, and for the reason behind awarding the Applicant the fees for services billed on 8/22/18 and 8/27/18 using CPT Codes 97026 and 97139, I find Applicant is entitled to be reimbursed for similar services provided on 11/7/18, 11/9/18 and 11/13/18. As noted, these services were denied based on the 8-unit rule, but Respondent has not provided sufficient proof in support of such a denial. Applicant is awarded \$94.14 for these services provided on 11/7/18, 11/9/18 and 11/13/18. All other services were reimbursed according to the WCCFS and acknowledged on the AR form by Applicant.

DOS: 11/28/18 - 12/4/18

Based on the records provided and the agreement as to what should be reimbursement under the WCCFS, I find that the Respondent has provided sufficient proof that they properly reimbursed the Applicant for the acupuncture treatment provided between 11/28/18 and 12/4/18.

DOS: 1/2/19 - 11/20/19

On 1/24/19 Respondent issued a denial noting, "*Regulation 68, 65-1.1, requires an Eligible Injured Person EIP to submit to a medical exam when reasonably required. The EIP JV was scheduled to attend Chiropractic/Acupuncture examinations on 12/18/2018*

& 1/10/2019. The EIPs failure to attend the medical exams is a violation of policy conditions and has prejudiced the company's right and ability to verify coverage, investigate causal relationship and determine the medical necessity of treatment. Therefore, your Chiropractic/Acupuncturist benefits are denied 6/10/2018." and thereafter timely claim specific denials for the services between 1/2/19 and 11/20/19 based on the EIP's failure to appear for scheduled IMEs on 12/18/18 & 1/10/19.

It is well settled that the appearance by an EIP at an IME is a condition precedent to an insurer's liability on the policy. See 11 NYCRR §65-1.1 (d) and the failure to appear for a properly scheduled initial and follow up IME is a breach of that condition precedent and a proper basis to deny a no-fault claim, retroactively to the date of the loss. Stephen Fogel Psychological PC v. Progressive Insurance Company, 35, A.D.3d 720; 827 N.Y.S.2d 217 (App. Div. 2nd Dept. 2006).

A defense that an injured party failed to appear at an IME requires proof of such. E.g., Careplus Medical Supply, Inc. v. AutoOne Ins. Co., 24 Misc.3d 132(A), 890 N.Y.S.2d 368 (Table), 2009 N.Y. Slip Op. 51372(U), 2009 WL 1926843 (App. Term 9th & 10th Dists. June 29, 2009); Daras v. GEICO Ins. Co., 22 Misc.3d 141(A), 881 N.Y.S.2d 362 (Table), 2009 N.Y. Slip Op. 50438(U), 2009 WL 679491 (App. Term 2d, 11th & 13th Dists. Mar. 10, 2009).

For an insurer to meet its prima facie burden and establish a defense of nonappearance at an IME the insurer must present sufficient proof that the scheduling letters were timely and properly mailed. SK Prime Medical Supply, Inc. v. Hertz Claim Management Corp., 37 Misc.3d 138(A), 2012 N.Y. Slip Op. 52192(U) (App. Term 1st Dept. 2012) citing Westchester Med. Ctr. v Countrywide Ins. Co., 45 AD3d 676 (2d Dept., 2007); Perfect Point Acupuncture, P.C. v. Auto One Insurance Co/mpany, 36 Misc.3d 140(A), 2012 NY Slip Op. 51486(U) (App. Term 2nd, 11th and 13th Jud. Dists. 2012) and the EIP failed to appear. Daily Medical Equipment Distribution Center, Inc. v. American Transit Ins. Co., 53 Misc.3d 147(A), 2016 N.Y. Slip Op. 51621(U) (App. Term 2d, 11th & 13th Dists. Nov. 1, 2016); Bright Med. Supply Co. v IDS Prop. & Cas. Ins. Co., 40 Misc. 3d 130 (A), 2013 NY Slip Op 51123(U) (App Term, 2d Dept, 2d, 11th & 13th Jud Dists 2013); Alrof Inc. v Safeco National Insurance Company, 39 Misc. 3d 130 (A), 971 N.Y.S. 2d 69 (App Term 2nd 11th & 13th Jud Dists. March 21, 2013).

In support of their IME no show defense the Respondent provides a copy of a letter from Signet Medical Services PC (Signet) dated 12/7/18 scheduling an IME with Philip Cilio, DC, LAc for 12/18/18. Signet sent the scheduling notice to an address located on Mott Street in Far Rockaway, New York which is listed on the EIP's Application for No-Fault Benefits (NF-2). Signet's 12/7/18 letter was carbon copied to the EIP's attorney, the Gitelis Law Offices pursuant to a letter of representation sent to the Respondent and contained in their submission documents. When the EIP did not appear for 12/18/18 IME Signet rescheduled the IME with Dr. Cilio for 1/10/19 with a letter dated 12/22/18 and addressed to the EIP at the Mott Street address she listed on her NF-2 with a carbon copy to the Gitelis Law Offices. Respondent also provides proof of no show in the form of letters from Dr. Cilio indicating he was present to perform IMEs on the EIP on the days in question and she failed to appear.

After a review of the documents contained in the ECF and in consideration of the arguments made by the parties I find that Respondent has provided sufficient proof to support it IME no show defense. Although there are different addresses in the record for the EIP the address used by the Respondent is on the EIP's Applicant for No-Fault Benefits provided to the Respondent under cover of a letter of Representation dated 7/10/18 from the Gitelis Law Offices. Where the insurer has mailed letters scheduling the IMEs to the EIP at the address set forth on the applicant for no fault benefits, the proof is sufficient to give rise to a presumption that the letters were properly mailed. Prime Diagnostics Medical P.C. v. New York Central Mutual Fire Ins. Co., __ Misc.3d __ (A), __ N.Y.S.3d __ (Table), 2016 N.Y. Slip Op. 51523 (U) (App Term, 2d, 11th & 13th Jud Dists 2016). The NF-2 was filled out and signed by EIP and although there may be other addresses contained in the record, I find that Respondent reasonably relied upon the accuracy of the address reported on the NF-2 and did not err in sending the notice to the address on the NF-2. Moreover, no proof has been provided that the address reported by EIP on the NF-2 was incorrect, or that EIP failed to receive the notices. Additionally, the letters sent to Gitelis Law Offices establish the timely and proper scheduling of the IMEs since there is sufficient evidence in the record of their representation. Pierre J. Renelique MD PC v Park Ins. Co., 2018 NY Slip Op 50780 (U); 59 Misc. 3d 147 (A) (App Term 2d Dept. 2d, 11th & 13th Jud. Dist 2018); Infinity Health Prods., Ltd. v. Redland Ins. Co., 39 Misc.3d 140 (A), 2013 NY Slip Op 50751(U) (App Term, 2d, 11th & 13th Jud Dists 2013). Combined with the proof mailing affidavit by Charles Campanelli of Signet which is sufficient to establish a standard office practice or procedure designed to ensure that items are properly addressed and mailed, Residential Holding Corp. v Scottsdale Insurance Company, 286 A.D.2d 679, 729 N.Y.S.2d 776 (2d Dept. 2001), I find that the Respondent has establish a presumption that the scheduling letters were received. New York Presbyterian Hospital v Allstate Ins. Co., 2006 NY Slip Op 03558, 29 AD 2d 547 (2nd Dept 2006).

Finally, I find the notice of no show signed by the doctor who was present to conduct the IMEs had the EIP appeared close in time to the IMEs sufficient to establish personal knowledge of the no appearance. H.E. Tuncel, M.D. v. Progressive Casualty Ins. Co., 21 Misc.3d 143(A), 880 N.Y.S.2d 227 (Table), 2008 N.Y. Slip Op. 52455(U), 2008 WL 5146958 (App. Term 2d & 11th Dists. Dec. 3, 2008).

Based on the documentary evidence and the arguments made by the parties at the hearing, I find that the Respondent has provided sufficient evidence in support of its IME no show defense and establish that the EIP violated a condition precedent to coverage by failing to appear for the IMEs. Since the Respondent establishes that the letters scheduling IMEs were timely sent and that the EIP failed to appear claim for services between 1/2/19 and 11/20/19 must be denied. RIU Chiropractic, P.C. v. Auto One Ins. Co., 27 Misc.3d 131(A), 910 N.Y.S.2d 408 (Table), 2010 N.Y. Slip Op. 50653(U), 2010 WL 1487488 (App. Term 2d, 11 & 13 Dists. Apr. 9, 2010).

CONCLUSION

For the reasons noted above the Applicant is awarded \$470.70. The balance of its claims are 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 applicant is AWARDED the following:

A.

Medical		From/To	Claim Amount	Status
	Five Elements Acupuncture PC	06/29/18 - 07/11/18	\$67.50	Denied
	Five Elements Acupuncture PC	07/13/18 - 07/20/18	\$55.86	Denied
	Five Elements Acupuncture PC	07/25/18 - 08/07/18	\$89.45	Denied
	Five Elements Acupuncture PC	08/14/18 - 08/27/18	\$152.21	Awarded: \$62.76
	Five Elements Acupuncture PC	08/28/18 - 09/14/18	\$150.00	Awarded: \$94.14

	Five Elements Acupuncture PC	09/19/18 - 10/05/18	\$150.00	Awarded: \$94.14
	Five Elements Acupuncture PC	10/10/18 - 11/06/18	\$243.98	Awarded: \$125.52
	Five Elements Acupuncture PC	11/07/18 - 11/27/18	\$279.85	Awarded: \$94.14
	Five Elements Acupuncture PC	11/28/18 - 12/14/18	\$114.09	Denied
	Five Elements Acupuncture PC	01/02/19 - 01/16/19	\$445.72	Denied
	Five Elements Acupuncture PC	01/21/19 - 02/06/19	\$505.72	Denied
	Five Elements Acupuncture PC	02/11/19 - 02/27/19	\$445.72	Denied
	Five Elements Acupuncture PC	03/04/19 - 03/27/19	\$505.72	Denied
	Five Elements Acupuncture PC	03/29/19 - 04/24/19	\$334.29	Denied
	Five Elements Acupuncture PC	04/26/19 - 05/03/19	\$222.86	Denied
	Five Elements Acupuncture PC	05/17/19 - 06/07/19	\$394.29	Denied
	Five Elements Acupuncture PC	06/28/19 - 07/12/19	\$222.86	Denied
	Five Elements			

	Acupuncture PC	07/24/19 - 08/16/19	\$394.29	Denied
	Five Elements Acupuncture PC	09/11/19 - 10/05/19	\$394.29	Denied
	Five Elements Acupuncture PC	10/29/19 - 11/20/19	\$222.86	Denied
Total			\$5,391.56	Awarded: \$470.70

- B. The insurer shall also compute and pay the applicant interest set forth below. 01/27/2021 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

The Respondent shall pay interest at a rate of 2% per month, calculated on a pro rata basis using 30-day month and in compliance with 11 NYCRR §65-3.9. Interest shall begin to accrue from the date of filing with the American Arbitration Association and end on the date the award is paid.

C. Attorney's Fees

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

The Respondent shall also pay the Applicant an attorney fee in accordance with 11 NYCRR §65-4.6 (e). If, however, the benefits and interest awarded thereon is equal to or less than the Respondent's written offer during the conciliation period, then the attorney fee shall be based upon the provisions of 11 NYCRR §65-4.6 (b).

- 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 Suffolk

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

08/13/2021
(Dated)

Frank Marotta

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:
3a10e31ea899bfcddde6fc6085f8675e

Electronically Signed

Your name: Frank Marotta
Signed on: 08/13/2021