American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Community Medical Wellness, PC (Applicant)	AAA Case No.	17-20-1186-7614
	Applicant's File No.	RiveraFr
- and -	Insurer's Claim File No.	0621605130101013
	NAIC No.	22055
Geico Insurance Company (Respondent)		

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: Assignor-FR

1. Hearing(s) held on 10/05/2021
   Declared closed by the arbitrator on 10/05/2021

   Karen Wagner, Esq. from Dash Law Firm, P.C. participated in person for the Applicant

   Eric Schechner, Arbitration Rep. from Geico Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **$ 3,518.65**, 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 record reveals that the Assignor-FR, a 30-year-old-male, sustained injuries in a motor vehicle accident on 1/3/20.

   The Applicant filed arbitration seeking reimbursement for trigger point and lumbar paravertebral nerve blocks injections provided between 1/17/20 and 7/10/20.

   Respondent made partial payment for the dates of service 2/21/20, 3/6/20, 3/27/20 and 6/5/20 predicated on the New York Workers' Compensation Fee Schedule (WCFS)

   The Respondent denied reimbursement of the services provided on 1/17/20, 1/31/20, 2/28/20, 5/22/20 and 7/10/20 based on a peer review by Jason Lipetz, MD.

The issue for determination is whether the services provided were medically necessary and if so what fees is the Applicant entitled to receive.

4. Findings, Conclusions, and Basis Therefor

FINDINGS AND CONCLUIONS:

The Applicant filed this arbitration in the amount of $3,518.65 for disputed fees in connection with for trigger point and medial branch block injections provided between 1/17/20 and 7/10/20 following a motor vehicle accident that occurred on 1/3/20.

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.

There is no issue that the Applicant submitted, and the Respondent received the bills for the purposes of Applicant's prima facie burden. Mary Immaculate Hospital v. Allstate Ins. Co., 5 A.D.3d 742, 774 N.Y.S.2d 564 (2d Dept. 2004). Viviane Etienne Medical Care, P.C. v. Country-Wide Ins. Co., 114 A.D.3d 33, 977 N.Y.S.2d 292 (2d Dept. 2013), aff'd 25 NY 3d 498 (2015). There is no issue that the Respondent made partial payments and issued timely denials upon receipt of the bills. Insurance Law §5106(a); 11NYCRR §65- 3.8(a) (1); 11NYCRR §65- 3.8(c), Presbyterian Hosp. v Maryland Cas. Co., 90 NY 2d 274, 660 NYS 2d 536 (1997) preserving for consideration their defense that the services lack medical necessity.

PEER REVIEW DENIALS

DOS: 1/17/20

On 1/17/20 Applicant administered bilateral trigger point injections (bilateral lumbar erector spinae and right lumbar quadratus lumborum) and submitted a bill in the amount of $511.09.

The Respondent reimbursed Applicant $104.08 for the office visit as billed but denied the injections based on a peer review by Jason Lipetz, MD dated **2/21/20**.

Dr. Lipetz notes that an appropriate role for a consideration of trigger point injection therapy in well-selected candidates is highlighted in Liss H, et al. Medical

Rehabilitation. In: Interventional Spine-An Algorithmic Approach. Slipman CW, Derby R, Simeone FA, Mayer TG (eds), Saunders - Elsevier. Philadelphia, PA. 2008. Pgs. 871-92. He notes that while there are no randomized controlled trials supporting the use of trigger point injections for lumbar pain syndromes, there is extensive literature describing trigger points and injection technique. Dr. Lipetz notes that trigger points, often comprised of taught bands which when palpated will result in characteristic pain referral patterns, are presumed to serve as a primary pain generator in myofascial pain syndromes. If such trigger points remain symptomatic despite an adequate trial of physical therapy, localized injection is reasonable. It is recommended that such injections be performed with local anesthetic alone or "dry needling" techniques. The use of steroid, such as Decadron, is reserved for cases in which significant muscular soreness is noted to have resulted from previous injection therapy.

There can be no necessity for the introduction of a more interventional and injection approach two weeks after the patient's described accident date without a more reasonable trial of less interventional therapies. The patient in this case was referred for a lumbar interventional approach without first failing to respondent to more conservative measures and allowing adequate passage of time from the date of the injury. As can be extrapolated from the literature and as is highlighted in Lumbar Axial Pain - An Algorithmic Methodology. In: Interventional Spine. An Algorithmic Approach. Slipman C, et al (eds). Elsevier. Philadelphia PA 2008, an algorithmic approach to the patient with lumbar axial pain initially employs relative rest, activity modification, therapeutic exercise, and analgesic use for up to 4/6 weeks prior to introducing a mor interventional approach.

Routine trigger point injections are performed regularly and safely utilizing dedicated physical examination and palpation techniques alone. There is no role for the introduction of ultrasound guidance during the performance of such procedures. The appropriate role for ultrasound guidance in more select musculoskeletal injection is reviewed Daley EL, et al. The American Journal of Sports Medicine 2011, 39: 656-662. This article reviews the literature pertaining to the role of image guidance, including musculoskeletal ultrasound, in a spectrum of joint injections. With such image use, in increased accuracy of injection is realized. This is inclusive of those injections targeting the shoulder, AC joint, and knee. Such criteria are not met in this case.

DOS: 1/31/20

On 1/31/20 Applicant administered multi-level left sided lumbar paravertebral nerve block under ultrasound guidance and submitted a bill in the amount of $569.20.

The Respondent denied reimbursement of the Applicant's entire bill based on a peer review by Jason Lipetz, MD dated **3/10/20**.

According to Dr. Lipetz, targeting three lumbar facet joints unilaterally is considered excessive when the evidence-based literature is considered in terms of addressing the posterior elements of the lumbar spine for diagnostic or therapeutic purposes.

This is reviewed in Nath S, et al. Percutaneous lumbar zygapophysial joint neurotomy using radiofrequency current in the management of chronic low back pain. A randomized double-blind trial. Spine 2008; 33: 291-7. In this study of patients who met strict inclusion criteria, including a positive response to three separate facet joint blocks, it is demonstrated that radiofrequency denervation is not a placebo and can be utilized with efficacy in carefully selected patients with chronic low back pain. This is further reviewed in Dreyfuss P, et al. Efficacy and validity of radiofrequency neurotomy for chronic lumbar zygapophysial joint pain. Spine 2000; 25: 1270-7. Medial branch neurotomy is an effective means of reducing pain in patients carefully selected based on response to controlled diagnostic blocks.

Dr. Lipetz goes on to say that ultrasound guidance is not an accepted means of successfully targeting the posterior elements of the lumbar spine.

There is no inclusive of a pre or post injection pain score or pain diagram completed by the patient during the life of the injected anesthetic in this case.

It is stated that these injections were performed in part for therapeutic purposes. Medial branch injections are intended for dedicated diagnostic purposes only. The diagnostic uncertainty in this case is further highlighted by the performance of both facet joint injections and trigger point injections in this patient. The patient us concurrently assigned a less typical diagnosis of prevailing myofascial pain and three symptomatic lumbar facet joints. There is no necessity for the multilevel facet joint injection procedure performed in this case and currently under review.

DOS: 2/28/20

On 2/28/20 Applicant administered multi-level left sided lumbar paravertebral nerve block under ultrasound guidance and submitted a bill in the amount of $569.20.

The Respondent denied reimbursement of the Applicant's entire claim based on a peer review by Jason Lipetz, MD dated **4/12/20**. Dr. Lipetz reasoning for finding the injection performed on 2/28/20 lacking in medical necessity is similar to those he expressed in his 3/20/20 peer review discussing similar injections provided on 1/31/20.

DOS: 5/22/20

On 5/22/20 Applicant administered multi-level left sided lumbar paravertebral nerve block under ultrasound guidance and submitted a bill in the amount of $633.27.

Respondent reimbursed Applicant $64.07 for the office visit but denied the balance of the billing based upon a peer review by Jason S. Lipetz, MD dated **6/28/20** noting this procedure has been found not to be medically necessary.

Dr. Lipetz reasoning for finding the injection performed on 5/22/20 lacking in medical necessity is similar to those he expressed in his 3/20/20 and 4/12/20 peer review discussing similar injections provided on 1/31/20 and 2/28/20.

DOS: 7/10/20

On 7/10/20 Applicant administered multi-level left sided lumbar paravertebral nerve blocks under ultrasound guidance and submitted a bill in the amount of $608.27.

Respondent reimbursed Applicant $64.07 for the office visit but denied the balance of the billing based upon independent medical review by Jason S. Lipetz dated **9/3/20** noting this procedure has been found not to be medically necessary.

Dr. Lipetz reasoning for finding the injection performed on 7/10/20 lacking in medical necessity is similar to those he expressed in his 3/20/20, 4/12/20 and 6/28/20 peer reviews discussing similar injections provided on 1/31/20, 2/28/20 and 5/22/20.

When a respondent presents sufficient evidence establishing a lack of medical necessity, the burden then shifts back to the applicant to present its own evidence of medical necessity.(see Prince, Richardson on Evidence §§ 3-104, 3-202 [Farrell 11th ed]); Lynbrook Medical of New York, PC v Praetorian Ins. Co., 48 Misc. 3d 139(A); 2015 NY Slip Op 51226(U) (App. Term 2d Department, Aug. 5, 2015); Alfa Medical Supplies v. Geico General Ins. Co.,2013 NY Slip Op 50064(U),38 Misc. 3d 134(A) (App. Term, 2nd Dept., 2013); Be Well Medical Supply, Inc. v. New York Cent. Mut. Fire Ins. Co., 18 Misc.3d 139(A), 2008 WL 506180 (App. Term 2d & 11th Jud Dists. 2008).

In support of its claim the Applicant submits a rebuttal by Robert Antoniou, MD dated 6/2/21 in which he addresses the peer reviews of Dr. Lipetz dated 2/21/20, 3/10/20, 4/12/20, 6/28/20 and 9/3/20 in which Dr. Lipetz denied the medical necessity of the trigger point injections on 1/17/20 and nerve blocks on 1/31/20, 2/28/20, 5/22/20 and 7/10/20.

According to Dr. Antoniou, Dr. Liptez believes there is diagnostic uncertainty as to both the trigger point and facet joint injections but notes there were numerous positive findings found on examination leading to the diagnosis of myofascial pain, facet-mediated pain as well as radiculopathy which does not mean there was diagnostic uncertainty. Dr. Antoniou points out that his examination findings, discussed in detail in the rebuttal, revealed trigger points diagnosing myofascial pain, pain with rotation, extension, and lateral flexion indicating facet-mediated pain. Therefore, the examinations he performed were sufficient for him to determine the medical necessity for the trigger point and facet joint injections on 1/17/20, 1/31/20, 2/28/20, 5/22/20 and 7/10/20.

Dr. Antoniou further points out that although the patient received both injections, the location of the injections is different. Trigger point the trigger point injections are injected into the muscles whereas the paravertebral nerve block injections are administered in the area lateral to the intervertebral space. The characteristic of myofascial pain as well as facetogenic pain is very distinct and the need for further individual injections can easily be determined by the characteristic of pain based on clinical symptoms. In this case the patient was suffering from both facetogenic and

myofascial pain and those it was determined medically necessary to provide both paravertebral nerve blocks and trigger point injections treatment to thoroughly address all sources of pain and aid in recovery.

Regarding the lumbar trigger point injections Dr. Antoniou notes that although Dr. Liptez assets that there is no necessity for the trigger point injections two weeks after the accident without a more reasonable trial of less interventional therapies, there are no specific guidelines delineating the absolute structured path for treatment prescribed to a patient and great deference should be given to the treating provider. Moreover, the patient had been in an active course of treatment but still had subjective complaints with several positive objective findings and therefore it was decided to administer the trigger point injections.

Dr. Antoniou goes on to say that Musculoskeletal pain is a common complaint that many primary-care and pain providers diagnose and treat regularly. Treating pain with a multimodal approach is paramount in providing safe and effective results for patients. Trigger point injections can be an effective primary or adjunctive therapy aimed at decreasing pain in the musculoskeletal system. By targeting specific points of myofascial pain, clinicians can directly treat pathologic tissue, address a patient's pain generator, and break the pain cycle with little to no side effects. Patients can have significant improvement in range of motion and overall functionality, without the need for taking pain medications. Meaningful results Can be provided with trigger point injections and should merit consideration as a treatment modality in the appropriate setting. Trigger Point Injection, Claudia Hammi; Jeremy D. Schroeder; Brent Yeung. Last Update: December 18, 2019 (Citation omitted).

Dr. Antoniou further indicates that trigger point injections is currently used to treat a wide variety of pain syndromes and other painful conditions. In this case they were provided to treat the patients low back pain and myalgia. Trigger point injection is generally considered a medical necessity in several scenarios including where they have been identified by physical examination and palpation, symptoms have persisted for a significant period of time and medical management therapies such as bed rest, exercises, physical therapy, NSAIDs, and muscle relaxants have failed to control the pain. (DAVID J. ALVAREZ, D.O., and PAMELA G. ROCKWELL, D.O., Trigger Points: Diagnosis and Management, University of Michigan Medical School, Ann Arbor, Michigan., Am Fam Physician. 2002 Feb 15;65(4):653-661.).

Dr. Antoniou also asserts that the ultrasound guidance was medically necessary, the advent of ultrasound technology in the non-invasive real-time imaging of soft tissues sheds new light on visualization of trigger points, explaining the effect of trigger point injection by blockade of peripheral nerves, and minimizing the complications of blind injection. Sikdar et al. have tried to use ultrasound to visualize and characterize trigger points. They found that trigger points appeared as focal, hypoechoic regions of elliptical shape, with a size of 0.16 cm. This is promising as ultrasound can provide a more objective diagnosis of trigger point. Even if visualization of individual trigger point is difficult due to the small size, some advocate the use of ultrasound to guide proper needle placement in muscle tissue and to avoid adipose or non-musculature structures during trigger point injections. I.S. Sikdar, J.P. Shah, T. Gebread et al., Novel

applications of ultrasound technology to visualize and characterize myofascial trigger points and surrounding soft tissue. Archives of Physical Medicine and Rehabilitation, vol. 90, no 11 pp. 1829-1838, 2009.

Regarding the lumbar paravertebral nerve blocks, Dr. Antoniou notes that as the treating healthcare provider he was in the best position to determine the need for the injections and based on the patients' complaints and his positive objective findings he determined that the lumbar injections at L3-4, L4-5 and L5-S1 levels. Dr. Antoniou notes that while Dr. Lipetz asserts that the injections are intended for dedicated diagnostic purposes only they have two goals: to help diagnose the cause and location of pain and to provide pain relief. Along with numbing medication, a facet joint injection also includes injecting time released steroid (cortisone) into the facet joint to reduce inflammation, which can sometimes provide longer-term pain relief. (Cervical, Thoracic and Lumbar Facet Joint Injections by Ray Baker, MD Updated 3/22/2013).

Therefore, facet block or medial branch block may be therapeutic and/or diagnostic. One of three things may happen. 1. The pain does not go away - which means that the pain is probably not coming from the blocked facet joints - this has diagnostic value. 2. The pain goes away and stays away for a few hours, but the original pain comes back and doesn't get better again. This would mean the block was also of diagnostic value -the pain is probably coming from the joints, but the steroid was not of benefit. 3. The pain goes away after the block; the pain may come back later that day but then the pain gets better again over the next few days. This means that the block was of therapeutic value - the steroid had a long-lasting effect on the pain.

A lumbar medial branch block is a diagnostic and therapeutic procedure for diagnosing and treating low back, buttock, hip, and groin pain. It temporarily interrupts pain signals carried by the medial branch nerves that supply a specific facet joint to help determine which facet joint is causing the pain. This allows for additional targeted therapies and the use of additional long term pain management for therapeutic purposes (citation omitted). Dr. Antoniou further reports that while Dr. Lipetz asserts there was no inclusion of pre or post injection pain score or pain diagram the medical records highlight that the patient experienced good relief from the blocks within 15 minutes of the injection and reported relief in his follow up evaluations.

Dr. Antoniou further notes advances in ultrasound has made it available to doctors in their practices. A study on The Validation of Ultrasound-Guided Lumbar Facet Nerve Block Injection as Confirmed by Fluoroscopy concluded that ultrasound-guided longitudinal facet view and surface landmarks of the spinous process and iliac crest line seems to be a promising guidance technique for conducting lumbar facet nerve block. Ultrasound guidance seems to be both a more practical technique than other alternatives and minimizes exposure to radiation in the lumbar facet nerve block process. See Asian Spine J, 2012. A study on ultrasound-guided injections in the lumbar and sacral spine concluded that ultrasound-guided injections in the lumbar and sacral spine are an efficient method of treating lumbosacral pain. J Korean Soc Spine Surg. 2018.

After a review of the documents contained in the ECF and in consideration of the arguments made by the parties at the hearing, I find that the Applicant has provided

sufficient evidence to support the nerve block injections. The rebuttal provided a clear medical rationale supporting the use of the nerve block injection based on the Assignor's subjective complaints and the positive clinical findings reflected in the Applicant's examination reports. As to the nerve blocks, I find the rebuttal adequately addresses the diagnostic and therapeutic nature of nerve blocks used for this Assignor as well as the use of ultrasound guidance in their performance. The Applicant has meaningfully addressed the conclusions set forth in the peer review. Jaga Med. Servs., P.C. v American Tr. Ins. Co., 2017 NY Slip Op 50954(U), 56 Misc. 3d 134(A) (2d, 11th & 13th Jud Dists July 21, 2017); Yklik, Inc. v. Geico Ins. Co., 2010 NY Slip Op. 51336(U) (App Term 2d, 11th & 13th Dists. July 22, 2010; Pan Chiropractic, P.C. v. Mercury Ins. Co., 24 Misc.3d 136(A), 2009 N.Y. Slip Op. 51495(U) (App Term 2d, 11th & 13th Dists. July 9, 2009) and established the medical necessity for the nerve blocks by a fair preponderance of the evidence.Orlin & Cohen Orthopedic Assoc. v Allstate Ins. Co., 2017 NY Slip Op 50937(U) (App. Term 2d & 11th Dists. July 21, 2017); Dayan v. Allstate Ins. Co., 49 Misc.3d 151(A), 2015 N.Y. Slip Op. 51751(U), 2015 WL 7900115 (App. Term 2d, 11th & 13th Dists. Nov. 30, 2015).

I am not persuaded by the rebuttal that the trigger point injections provided on 1/17/20 just two weeks after the accident were medically necessary. There is insufficient evidence in the record and rebuttal that the Assignor was permitted sufficient to respond to more conventional treatment before a more interventional approach was taken. As such, I do not find that the Applicant sufficiently established the medical necessity for the trigger point injections.

Since Respondent has not provide sufficient proof to find Applicant billed in excess of the WCFS (See discussion below) they are awarded their claim in the amount $569.20 for services on 1/31/20, $569.20 for services on 2/28/20, $569.20 for services on 5/22/20 and $544.20 for services provided on 7/10/20 for a total reimbursement of $2251.80.

FEE SCHEDULE DENIALS

DOS: 2/21/20

On 2/21/20 Applicant administered multi-level right side lumbar paravertebral nerve blocks under ultrasound guidance and submitted a bill in the amount of $569.20.

Applicant billed $269.58 using CPT Code 0216T which is a Category III Code with a code descriptor of "*Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with ultrasound guidance, lumbar or sacral; single level.*" Applicant also billed $136.05 using CPT Code 0217T which is a Category III Code with a descriptor of "*Second level (List separately in addition to code for primary procedure.*" and $138.57 using CPT Code 0218T which is a Category III Code with a descriptor of "*Third and any additional level(s) (List separately in addition to code for primary procedure.)*" Finally, Applicant billed $25.00 for medication using CPT Code J2001.

The Respondent reimbursed Applicant $277.62. They reimbursed the Applicant $125.97 for Code 0216T and $73.29 for the second and third level injections billed using codes 0217T and 0218T. Finally, Respondent reimbursed Applicant $5.07 for the medication injected.

DOS: 3/6/20

On 3/6/20 Applicant administered multi-level left side lumbar paravertebral nerve blocks under ultrasound guidance and submitted a bill in the amount of $569.20.

Applicant again billed $269.58 using CPT Code 0216T, $136.05 using CPT Code 0217T, $138.57 using CPT Code 0218T and finally, Applicant billed $25.00 for medication using CPT Code J3301.

The Respondent reimbursed Applicant $427.65. They reimbursed Applicant $269.58 as billed for the first level injection and $73.29 each for the second and third level injections. Respondent also reimbursed Applicant $11.49 for the medication injected.

DOS: 3/27/20

On 3/27/20 Applicant administered multi-level right side lumbar paravertebral nerve blocks under ultrasound guidance and submitted a bill in the amount of $633.27.

Applicant billed $269.58 using CPT Code 0216T, $136.05 using CPT Code 0217T, $138.57 using CPT Code 0218T, $64.07 using CPT Code 99213 and $25.00 using CPT Code J3301.

The Respondent reimbursed Applicant $348.11; $64.07 for Code 99213, $125.97 for Code 0216T, $73.29 for CPT Code 0217T, $73.29 for CPT Code 0218T and finally $11.49 for Code J3301.

DOS: 6/5/20

On 6/5/20 Applicant administered multi-level right side lumbar paravertebral nerve blocks under ultrasound guidance and submitted a bill in the amount of $569.20.

Applicant billed $269.58 using CPT Code 0216T, $136.05 using CPT Code 0217T, $138.57 using CPT Code 0218T and $25.00 using CPT Code J3301.

The Respondent reimbursed Applicant $427.65 They reimbursed the Applicant $269.58 as billed for CPT Code 0216T and $73.29 for the second and third level injections using codes 0217T and 0218T. Finally, Respondent reimbursed Applicant $11.49 for the medication injected.

Once the Applicant's prima facie burden of proof is established, 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).

In the instant matter the Respondent provided copies of fee schedule review by Support Claim Services. While these reports mirror the payment made by Respondent, they fail to set forth proper reasoning to the fee reductions and are not competent proof to support Respondent's fee schedule argues. Although not specifically mentioned or discussed, some of the reports appear to be based the reduction of the charges on General Ground Rule 3 governing by-report codes. Some charges were reduced based on relative value units assigned to injections under CPT Codes the 64493, 64494 and 64495. However, not all charges were reduced. Some were reimbursed as billed. Other charges were reduced, and reference was made to the Surgical Ground Rule 5 dealing with multiple procedures; however, the reductions made are not mathematically correct in reference to the Surgical Ground. Finally, there is a difference between the codes billed by Applicant and the possible codes used to reimburse the Applicant. The by-report codes consider the use of ultrasound guidance while CPT Codes 64493, 64494 and 64495 reference the use of fluoroscopic or CT imaging guidance. This is not considered in any of the report by Support Claim Services.

The burden is on Respondent to provide adequate proof to support its fee reductions. In this matter Respondent has not done this and therefore has failed to demonstrate that the Applicant's claim is in excess of the appropriate fee schedules. 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). Respondent has not provided either a fee audit by a certified professional coder or a peer review supporting it fee reductions.

I find this also applies to Respondent reduction of the medications used during the procedures. Although they cite to the governing regulation with regards to medications, they provide no proof supporting their reductions.

Applicant is entitled to reimbursement on the amount of $291.58 for services on 2/21/20; $141.55 for services provided on 3/6/20; $285.16 for services provided on 3/27/20 and $141.55 for services provided on 6/5/20 for a total reimbursement of $859.84.

CONCLUSION

For the reasons noted above Applicant is awarded its claim in the amount of $3,111.64.

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**
	Community Medical Wellness, PC	**01/17/20 - 07/10/20**	**$3,518.65**	**Awarded: $3,111.64**
Total			**$3,518.65**	**Awarded: $3,111.64**

B. The insurer shall also compute and pay the applicant interest set forth below. 12/01/2020 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.

10/30/2021
(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:
c0080896d0d94165cb9ab3cb58286999

Electronically Signed

Your name: Frank Marotta
Signed on: 10/30/2021