

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Jason Gallina, MD
(Applicant)

- and -

Allstate Insurance Company
(Respondent)

AAA Case No. 17-22-1276-1022

Applicant's File No. N/A

Insurer's Claim File No. 0553468281
2RH

NAIC No. 19232

ARBITRATION AWARD

I, Brett Hausthor, 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: patient

1. Hearing(s) held on 10/10/2023
Declared closed by the arbitrator on 10/10/2023

Hillary Blumenthal, Esq. from Law Offices of Hillary Blumenthal LLC (Hoboken)
participated virtually for the Applicant

Donna Strudwick, Esq. from Law Offices of John Trop participated virtually for the
Respondent

2. The amount claimed in the Arbitration Request, **\$275.00**, 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

In dispute is the Applicant's bill for an office visit provided to the injured party on July 13, 2020 as a result of injuries sustained in a motor vehicle accident on July 16, 2019.

Respondent denied the claim based on an Independent Medical Examination performed by Dr. Julio Westerband on November 5, 2019 which found that no further treatment was medically necessary.

4. Findings, Conclusions, and Basis Therefor

Respondent's Independent Medical Examination performed by Dr. Westerband on November 5, 2019 indicates that this 78 year old male was a driver involved in a motor vehicle accident on July 16, 2019. He injured his neck, back, left knee, left ankle and left foot. He was seen at Urgent Care and released. He subsequently began a course of conservative treatment which included physical therapy, chiropractic treatment, acupuncture treatment and massage therapy. At the time of Respondent's examination, the patient continued to complain of pain in his neck, back and left ankle.

Respondent's examination of the cervical spine revealed deficits in flexion, extension, right and left lateral flexion and right and left rotation. Respondent's examination of the lumbar spine revealed deficits in flexion and extension with bilateral straight leg raise being negative at 70 degrees, (80 degrees is normal). Respondent's examination of the right knee revealed a deficit in flexion. Respondent's examination of the left knee revealed a deficit in flexion. Respondent's examination of the right ankle, right foot, left ankle and left foot is normal. Based on this examination, Respondent contends that the various sprains/strains were resolved and that no further treatment was medically necessary.

Based on Respondent's I.M.E., I find, as a matter of fact, that further treatment was medically necessary and therefore the disputed service was medically necessary. Respondent's I.M.E. revealed numerous range of motion deficits and based on the patient's age, I sense that this patient required further treatment. I note that Applicant's office visit provided on July 13, 2020 did in fact recommend further treatment. Reimbursement as requested is hereby due and owing.

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
	Jason Gallina, MD	07/13/20 - 07/13/20	\$275.00	Awarded: \$275.00
Total			\$275.00	Awarded: \$275.00

B. The insurer shall also compute and pay the applicant interest set forth below. 11/23/2022 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Respondent shall pay interest from the filing date until the date that payment is made at two percent per month, simple interest, on a pro rata basis using a thirty (30) day month.

C. Attorney's Fees

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

Respondent shall pay Applicant an attorney's fee in accordance with 11 NYCRR 65-4.6(d) on the awarded claim.

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 NY

SS :

County of Queens

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

10/11/2023
(Dated)

Brett Hausthor

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:
0ee918aa35dc5883625eeb7f3de234b6

Electronically Signed

Your name: Brett Hausthor
Signed on: 10/11/2023