

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Galperin Medical Care PC
(Applicant)

- and -

Geico Insurance Company
(Respondent)

AAA Case No.	17-23-1296-0227
Applicant's File No.	GCPC 89.02, 03
Insurer's Claim File No.	0495173310101026
NAIC No.	35882

ARBITRATION AWARD

I, Joshua Adler, 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 10/03/2023
Declared closed by the arbitrator on 10/03/2023

M. Lamond from Michael J. Lamond PC participated virtually for the Applicant

K.Siegel from Geico Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$2,101.18**, was AMENDED and permitted by the arbitrator at the oral hearing.

As amended, applicant seeks \$1400.78.

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

3. Summary of Issues in Dispute

The EIP claimed injuries arising from a 9/09/22 MVA.

Applicant seeks payment for rendering extracorporeal shockwave therapy ("ESWT") on 9/27/22 and 10/04/22.

Respondent asserted a defense based on the "45 Day Rule."

4. Findings, Conclusions, and Basis Therefor

EIP: male, born November 1954, initials C.M.

I have reviewed the MODRIA file maintained by the AAA. The findings set forth below are based on documents in MODRIA and arguments made at the hearing.

The EIP claimed injuries arising from a 9/09/22 MVA.

Applicant seeks payment for rendering extracorporeal shockwave therapy ("ESWT") on 9/27/22 and 10/04/22.

Respondent asserted a defense based on the "45 Day Rule."

11 NYCRR 65, section 1, provides in relevant part: "Proof of Claim; Medical, Work Loss, and Other Necessary Expenses. In the case of a claim for health service expenses, the eligible injured person or that person's assignee or representative shall submit written proof of claim to the Company, including full particulars of the nature and extent of the injuries and treatment received and contemplated, as soon as reasonably practicable but, in no event later than 45 days after the date services are rendered" (emphasis added).

With respect to DOS 9/27/22, respondent claimed receipt of the invoice on 11/14/22 - beyond 45 days from DOS. However, applicant submitted proof that it mailed the invoice on 11/09/22, i.e., within the 45-day limit (see detailed certificate of mailing, date stamped 11/09/22).

With respect to DOS 10/04/22, respondent claimed receipt of the invoice on 11/22/22 - beyond 45 days from DOS. However, applicant submitted proof that it mailed the invoice on 11/17/22, i.e., within the 45-day limit (see detailed certificate of mailing, date stamped 11/17/22).

I find that the bills were timely "submitted" to respondent within the meaning of the above-quoted regulation. In this regard, respondent did not draw my attention to authority supporting its argument that an invoice is only deemed "submitted" when it is received by the insurer.

Thus, I reject respondent's reliance on the "45 Day Rule."

Award for the applicant.

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
	Galperin Medical Care PC	09/27/22 - 09/27/22	\$1,050.59	\$700.39	Awarded: \$700.39
	Galperin Medical Care PC	10/04/22 - 10/04/22	\$1,050.59	\$700.39	Awarded: \$700.39
Total			\$2,101.18		Awarded: \$1,400.78

- B. The insurer shall also compute and pay the applicant interest set forth below. 04/20/2023 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Respondent shall pay the applicant interest computed from 04/20/23, the date on which the AR-1 was first received by the American Arbitration Association, at a rate of 2% per month, simple, and ending with the date of the payment of the award, subject to the provisions of 11 NYCRR 65-3.9.

C. Attorney's Fees

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

This matter was filed with the AAA after February 4, 2015. Thus, the insurer shall pay the applicant an attorney's fee in accordance with 11 NYCRR 65-4.6(d).

- 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 Nassau

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

10/26/2023

(Dated)

Joshua Adler

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:
cc6f232440d641b84a1a85b9e9a031cd

Electronically Signed

Your name: Joshua Adler
Signed on: 10/26/2023