

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Medisource Medical Inc.
(Applicant)

- and -

Maya Assurance Company
(Respondent)

AAA Case No. 17-23-1300-1936

Applicant's File No. 2936128

Insurer's Claim File No. 2-221389-02

NAIC No. 36030

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 12/04/2023
Declared closed by the arbitrator on 12/04/2023

Marcy Cohen, Esq. from Israel Purdy, LLP participated virtually for the Applicant

Christine Lee, Esq. from De Martini & Yi, LLP participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$620.62**, 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 are the Applicant's bills for a vena flow system (DVT prevention) along with a cuff provided to the injured party on January 18, 2023 as a result of injuries sustained in a motor vehicle accident on June 6, 2022.

Respondent denied the claims based on Independent Medical Examinations performed by Dr. Joseph Margulies on December 15, 2022, Dr. Deepak Vasishtha on October 7, 2022 and Todd Aordkian, D.C. on October 20, 2022 which found that no further treatment was medically necessary.

4. Findings, Conclusions, and Basis Therefor

Respondent's Independent Medical Examination performed by Dr. Vasishtha on October 7, 2022 indicates that this 61 year old female was a passenger involved in a motor vehicle accident on June 6, 2022. She injured her neck, back, right shoulder, right knee and right elbow. She was subsequently provided with conservative treatment which included physical therapy, chiropractic treatment and trigger point injections.

Respondent's examination of the thoracolumbar spine revealed deficits in flexion, extension and left lateral flexion. Respondent's examination of the cervical spine was normal. Respondent's examination of the elbows revealed a deficit in flexion. Respondent's examination of the right knee revealed a deficit in flexion. Mild tenderness was noted in the right knee. Respondent's examination of the shoulders was normal. Respondent's examination of the wrists/hands, hips and ankles was normal. Based on this examination, Respondent contends that the various sprains/strains were resolved and that no further treatment was medically necessary.

Respondent's Independent Chiropractic Examination performed by Todd Aordkian, D.C. on October 7, 2022 revealed deficits in extension, rotation and lateral flexion of the cervical spine. The examination of the thoracic spine was normal. The examination of the lumbar spine revealed a deficit in extension. Based on this examination, Respondent contends that the various sprains were resolved and that no further chiropractic treatment was medically necessary.

Respondent's Independent Medical Examination performed by Dr. Margulies on December 15, 2022 revealed continued complaints in the back, shoulders and knees. Respondent's examination of the cervical spine was normal. Respondent's examination of the shoulders was normal. Respondent's examination of the lumbar spine was normal. Respondent's examination of the knees revealed a deficit in flexion. Based on this examination, Respondent contends that the various sprains and contusions were resolved and that no further treatment was medically necessary.

When seen by Dr. Sinha, an orthopedic surgeon, on September 20, 2022, the patient was seen for an orthopedic consult examination. The patient continued to complain of right knee pain. The patient was being provided with physical therapy for three months with no relief. The patient had constant right knee pain with stiffness and weakness noted. The patient had various difficulties with the right knee. The patient noted clicking, popping, buckling and intermittent locking. The right knee examination revealed swelling and crepitus with positive orthopedic testing. Range of motion deficits were noted. A right knee MRI performed on September 8, 2022 revealed tears. Right knee surgery was discussed inasmuch as conservative treatment simply did not do the trick. Right knee surgery was performed on January 18, 2023.

Based on the documentation presented, I find, as a matter of fact, that the right knee surgery performed on January 18, 2023 along with the disputed items were medically

necessary. Respondent's I.M.E.'s do not work in Respondent's favor. Right knee issues continued despite conservative treatment provided. 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
	Medisource Medical Inc.	01/18/23 - 01/18/23	\$620.62	Awarded: \$620.62
Total			\$620.62	Awarded: \$620.62

- B. The insurer shall also compute and pay the applicant interest set forth below. 05/18/2023 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.

12/05/2023
(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:
5376913e0c084d5234f6680b0d852cde

Electronically Signed

Your name: Brett Hausthor
Signed on: 12/05/2023