

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Primecare Drug & Surgical Corp
(Applicant)

- and -

Geico Insurance Company
(Respondent)

AAA Case No.	17-23-1293-6686
Applicant's File No.	AR23-19556
Insurer's Claim File No.	8727417600000001
NAIC No.	35882

ARBITRATION AWARD

I, Camille Nieves, 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: Eligible Injured Person (AY)

1. Hearing(s) held on 12/06/2023
Declared closed by the arbitrator on 12/06/2023

Alek Beynenson from The Beynenson Law Firm, PC participated virtually for the Applicant

Iqra Shah from Geico Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,157.21**, 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

Applicant seeks reimbursement for medications prescribed after right knee surgery performed on 12/1/22 on the EIP, a 40 year old restrained female passenger, following an accident on 9/3/22. The charges were timely denied based on a peer review by Dr. Ronald Mann dated 1/3/23 based on lack of medical necessity.

4. Findings, Conclusions, and Basis Therefor

Applicant seeks reimbursement for medications prescribed after right knee surgery performed on 12/1/22 on the EIP, a 40 year old restrained female passenger, following

an accident on 9/3/22. The charges were timely denied based on a peer review by Dr. Ronald Mann dated 1/3/23 based on lack of medical necessity.

The peer reviewed the pertinent records and states the EIP was a 40 year old restrained female passenger not treated in an ER who began conservative treatments for right knee pain. On 9/15/23 a right knee MRI reported oblique tear of the posterior horn of the lateral meniscus, joint effusion and edema. On 10/27/22, an exam of the knee reported decreased range of motion with pain, mild effusion and swelling. There was tenderness and positive McMurray and Patellar apprehension tests. Muscle strength was 4/5. The impression was right knee post traumatic internal derangement, torn meniscus. Therapy and surgery were recommended. Dr. Mann indicates the MRI did not report surgical findings; however, the MRI reported a torn lateral meniscus and in the case of a tear, the peer concedes that surgery may be indicated.

The peer further indicates that it was unnecessary to perform surgery as the MRI eliminated the need for surgery "despite negative MRI findings" however, again, he also concedes the MRI reported a tear which is contradictory.

Right knee arthroscopic surgery, meniscectomy, synovectomy, coblation arthroplasty was performed which the peer states was medically unnecessary. The peer states the MRI did not show a surgically correctable lesion and that further conservative treatment was indicated with injections.

There is no discussion about the oblique tear or any rationale for the reason why such a tear is not surgically correctable.

Finally, the peer states the surgery was not the correct modality and that further conservative treatment was indicated at this stage, however, Dr. Mann does does indicate how much conservative treatment is indicated before surgery is indicated or that it was a deviation to perform surgery rather than a judgement call or a breach of standards of care.

In addition, the medications are not specifically discussed by the peer which fails to establish lack of medical necessity for these charges.

I find the peer insufficient to establish lack of medical necessity as the surgeon is in the best position to know what post-operative measures are best for the patient who undergoes surgery and deference should be given to such judgement calls. In addition, the peer addresses the issue of medical necessity in conclusory manner and without a sufficient factual basis.

The charges are 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
	Primecare Drug & Surgicals Corp	12/01/22 - 12/01/22	\$1,157.21	Awarded: \$1,157.21
Total			\$1,157.21	Awarded: \$1,157.21

- B. The insurer shall also compute and pay the applicant interest set forth below. 04/03/2023 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Interest shall be computed from the date of filing at a rate of 2% per month, simple, ending with the date of payment of the award.

C. Attorney's Fees

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

Pursuant to 11 NYCRR 65-4.6, 20% of the amount of first party benefits, plus interest thereon, subject to a maximum of \$1360.00.

- 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 FL

SS :

County of Osceola

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

12/11/2023

(Dated)

Camille Nieves

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:
88a5c4ef22c18432229ee5e22a583df8

Electronically Signed

Your name: Camille Nieves
Signed on: 12/11/2023