

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Full Grace Physical Therapy PC  
(Applicant)

- and -

Allstate Fire & Casualty Insurance Company  
(Respondent)

AAA Case No. 17-23-1323-7928

Applicant's File No. FDNY23-70478

Insurer's Claim File No. 0683727309  
DRL

NAIC No. 29688

**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 (MA)

1. Hearing(s) held on 07/17/2024  
Declared closed by the arbitrator on 07/17/2024

Melissa Pirillo from Fass & D'Agostino, P.C. participated virtually for the Applicant

Marie-Ann Inguanti from Law Offices of John Trop participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$2,139.68**, was AMENDED and permitted by the arbitrator at the oral hearing.

Applicant amended the amount in dispute to \$1514.64 based on the fee schedule.

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

3. Summary of Issues in Dispute

Applicant seeks reimbursement for physical therapy treatment from 4/21/23 to 8/21/23 following a motor vehicle accident on 8/30/22. The charges were timely denied based on an IME by Edward Mills, MD on 3/24/23, effective 4/21/23. A general denial was issued on 4/7/23. The EIP is a 58 year old restrained male driver.

#### 4. Findings, Conclusions, and Basis Therefor

Applicant seeks reimbursement for physical therapy treatment from 4/21/23 to 8/21/23 following a motor vehicle accident on 8/30/22. The charges were timely denied based on an IME by Edward Mills, MD on 3/24/23, effective 4/21/23. A general denial was issued on 4/7/23. The EIP is a 58 year old restrained male driver.

The examiner notes the EIP is a 58 year old restrained male driver not treated in an ER who began chiropractic and physical therapy treatment for neck and back pain. He was retired and complained of neck, back, right shoulder and ankle pain. On exam of the spine there was no spasm but ranges of motion were decreased and there was lumbar tenderness. The shoulder exam noted tenderness and decreased range of motion. Ranges were also decreased in the elbows, wrists/hands, hips, knees and ankles/feet but without tenderness. Orthopedic and neurologic testing of all systems was negative. Sprains and strains of the spine, right shoulder and ankle were deemed resolved and there was no further need for treatment based on an objectively normal exam.

I find the IME insufficient to establish resolved sprains and strains and that further treatment was unnecessary. There are many positive findings including tenderness and decreased range of motion and while these are subjective in part, there is no explanation for so many positive findings and the only explanation is that he reached an end result which is rebutted by the continuation of treatment and the evidence.

A 10/28/22 report notes follow up for MRIs of right shoulder, right hip, right elbow and right knee. Complaint was mostly right shoulder pain. On exam of the shoulder there was tenderness, decreased range of motion and positive orthopedic tests. On exam of the hip gait was antalgic, there was tenderness and decreased range of motion. Orthopedic tests were positive. The right knee exam noted tenderness, decreased range of motion and negative orthopedic tests. The Impression of the right shoulder was complete full thickness tear of the rotator cuff, impingement, tendon tear. The right elbow had osteoarthritis and tendon tear. The right hip had arthritis and labral tearing and the right knee had articular cartilage injury. Shoulder surgery was recommended and therapy continued.

A 5/10/23 exam documents neck, back, right shoulder and leg pain (4/10) with decreased range of motion, decreased motor strength (4/5) in several areas, spasm and

paresthesias. Orthopedic testing of the spine and right shoulder was positive. Conservative treatment was continued.

I find the evidence sufficient to establish unresolved injuries and that further treatment was necessary based on continued positive objective findings.

The charges are awarded.

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
	Full Grace Physical Therapy PC	04/21/23 - 08/21/23	\$2,139.68		Awarded: \$1,514.64
Total			\$2,139.68		Awarded: \$1,514.64

- B. The insurer shall also compute and pay the applicant interest set forth below. 11/03/2023 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.

07/22/2024  
(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:**  
9337e160a25f5f3dda14b0efd89eb191

### Electronically Signed

Your name: Camille Nieves  
Signed on: 07/22/2024