

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Brooklyn Medical Practice, PC
(Applicant)

- and -

Allstate Fire & Casualty Insurance Company
(Respondent)

AAA Case No. 17-23-1291-0095

Applicant's File No. 153.947

Insurer's Claim File No. 0628739252
2FM

NAIC No. 29688

ARBITRATION AWARD

I, Lester Hill, 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 07/19/2024
Declared closed by the arbitrator on 07/19/2024

Sakrit Srivastava from Tsirelman Law Firm PLLC participated virtually for the Applicant

Marilyn Oppedisano from Law Offices of John Trop participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,744.62**, 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

Were the claims for office evaluation is and physical therapy treatment provided to the EIP from May 27, 2021 through January 31, 2022 properly billed and paid pursuant to the fee schedule and were the claims timely presented to the respondent? The 25-year-old male EIP was involved in a motor vehicle accident on May 19, 2021 and received treatment for injuries sustained in the accident.

4. Findings, Conclusions, and Basis Therefor

At issue is whether the claims for office evaluation is and physical therapy treatment provided to the EIP from May 27, 2021 through January 31, 2022 properly billed and paid pursuant to the fee schedule and were the claims timely presented to the respondent.

I have reviewed the documents contained in the electronic case folder as of July 19, 2024. This decision is rendered based upon those documents and the parties arguments at the hearing conducted on July 19, 2024.

An Applicant establishes a prima facie showing of its entitlement to No-Fault benefits as a matter of law by submitting evidentiary proof that the prescribed statutory billing forms had been mailed and received and the payment of No-Fault benefits were overdue. *Westchester Medical Center v. Lincoln General Ins. Co.*, 60 A.D. 3d 1045, 877 N.Y.S.2d 340 (2d Dept. 2009).

The EIP was involved in a motor vehicle accident on May 19, 2021. Thereafter, the EIP obtained treatment from multiple medical providers for injuries sustained in the accident.

This arbitration concerns eight bills for treatment rendered to the EIP from May 27, 2021 through January 31, 2022.

It is the burden of the respondent to demonstrate that the applicant's claims were in excess of the fee schedule. *St. Vincent's Medical Center PC v. GEICO*, 2010 NY Slip Op 5215(u), App. Term 2 Dept. 2010.

In reverse order as submitted by the applicant:

Bill #1 for treatment rendered to the EIP from January 14, 2022 through January 31, 2022 in the amount of \$340.08 was denied by the respondent and the respondent made partial payment in the amount of \$27.57.

Bill #2 for treatment rendered to the EIP from December 5, 2021 through December 30, 2021 in the amount of \$522.08 was denied by the respondent and the respondent made partial payment in the amount of \$424.21, asserting a fee schedule defense.

Bill #3 for treatment rendered to the EIP from November 3, 2021 through November 21, 2021 in the amount of \$372.24 was denied by the respondent and the respondent made partial payment in the amount of \$51.70, asserting a fee schedule defense.

Bill #4 for treatment rendered to the EIP from August 1, 2021 through August 29, 2021 in the amount of \$310.25 was denied by the respondent and the respondent made partial payment in the amount of \$282.22, asserting a fee schedule defense.

For each of these first four bills, the respondent submitted proof of prior medical payments to North Shore Chiropractic. The respondent submitted the explanation of benefits paid to North Shore Chiropractic, which demonstrate that the respondent, properly reimbursed the applicant for the remaining available units, recognizing the 12

unit rule for the maximum number of physical modalities reimbursable for a given date of treatment. I find the respondent properly applied the 12 unit rule and submitted sufficient proof that the payments made to the applicant were consistent with the fee schedule and the applicant is entitled to no further reimbursement for these four bills.

Bill #5 is for treatment rendered to the EIP from July 5, 2021 through July 26, 2021 in the amount of \$307.65. The respondent submitted no denial regarding this claim. The applicant submitted no proof of transmission of the claim to the respondent, such as a post office cancellation or affidavit of mailing. Based upon the above, the claim is dismissed without prejudice for submission of proof of transmission of the claim to the respondent.

Bill #6 is for treatment rendered to the EIP from June 2, 2021 through June 28, 2021 in the amended amount of \$625.30. The respondent's denial asserts that this claim is a duplicate for a previously submitted claim. The respondent submitted no proof that this was a duplicate claim which the respondent previously addressed. Accordingly, applicant is awarded \$625.30.

Bill #7 is for treatment rendered to the EIP on June 1, 2021 in the amount of \$75.00. The respondent submitted no denial regarding this claim. The applicant submitted insufficient proof that the claim was presented to the respondent. The applicant submitted what appears to be a fax affidavit of service, undated and unsigned with no fax transmission page. Accordingly, I find there is insufficient proof that the claim was presented to the respondent and the claim is dismissed.

Bill #8 is for treatment rendered to the EIP from May 27, 2021 through May 30, 2021 in the amended amount of \$110.90. The respondent's denial asserts that this claim is a duplicate for a previously submitted claim. The respondent submitted no proof that this was a duplicate claim which the respondent previously addressed. Accordingly, applicant is awarded \$110.90.

In conclusion, applicant is awarded \$736.20.

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
	Brooklyn Medical Practice, PC	01/14/22 - 01/31/22	\$73.37	Denied
	Brooklyn Medical Practice, PC	11/03/21 - 11/21/21	\$320.54	Denied
	Brooklyn Medical Practice, PC	05/27/21 - 05/30/21	\$141.26	Awarded: \$110.90
	Brooklyn Medical Practice, PC	08/01/21 - 08/29/21	\$28.03	Denied
	Brooklyn Medical Practice, PC	06/02/21 - 06/28/21	\$700.90	Awarded: \$625.30
	Brooklyn Medical Practice, PC	06/01/21 - 06/01/21	\$75.00	Denied
	Brooklyn Medical Practice, PC	12/05/21 - 12/30/21	\$97.87	Denied
	Brooklyn Medical Practice, PC	07/05/21 - 07/26/21	\$307.65	Dismissed without prejudice
Total			\$1,744.62	Awarded: \$736.20

B. The insurer shall also compute and pay the applicant interest set forth below. 03/16/2023 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Interest is awarded from the date of the filing of the AR1 at a rate of 2% per month, simple, ending with the payment of the claim.

C. Attorney's Fees

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

Attorney fees are awarded pursuant to 11NYCRR 65-4.6(e) at a rate of 20% of the awarded claim, including interest, 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 NY
SS :
County of Nassau

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

08/07/2024
(Dated)

Lester Hill

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:
3e3dad9f3090b20de9e1eab37f83e8af

Electronically Signed

Your name: Lester Hill
Signed on: 08/07/2024