

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Beach Medical Rehabilitation, PC
(Applicant)

- and -

Geico Insurance Company
(Respondent)

AAA Case No.	17-23-1322-0939
Applicant's File No.	DK23-402255
Insurer's Claim File No.	0652228240000001
NAIC No.	35882

ARBITRATION AWARD

I, Natia Pavel, 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 (JM)

1. Hearing(s) held on 07/10/2024
Declared closed by the arbitrator on 07/10/2024

Artur Finkel Esq., from Korsunskiy Legal Group P.C. participated virtually for the Applicant

Kevin Smith from Geico Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$603.40**, was AMENDED and permitted by the arbitrator at the oral hearing.

Applicant amended this claim to \$515.60 representing the fee schedule rate for the outcome assessment testing.

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

3. Summary of Issues in Dispute

Applicant is seeking reimbursement in the amended sum of \$515.60 representing the outcome assessment testing that was rendered to the EIP on 6/27/23. The IP was a 21-year-old male who was injured as a result of a motor vehicle accident that occurred on 3/28/23. The applicant timely submitted this claim to the carrier seeking reimbursement. The Respondent denied this claim

based on fee schedule considerations. The carrier submitted a fee coder affidavit by Crystal Russo CPC in support of its reductions. The parties agreed during the hearing that the sole issue in this matter is whether the carrier properly reduced the charges for CPT code 99354 based on the fee schedule.

4. Findings, Conclusions, and Basis Therefor

The case was decided on the submissions of the Parties as contained in the ADR Center maintained by the American Arbitration Association and the oral arguments of the parties' representatives. This hearing took place via ZOOM. The following is a brief overview of the evidence:

Applicant is seeking reimbursement in the amended sum of \$515.60 representing the outcome assessment testing that was rendered to the EIP on 6/27/23. The IP was a 21-year-old male who was injured as a result of a motor vehicle accident that occurred on 3/28/23. The applicant timely submitted this claim to the carrier seeking reimbursement. The Respondent denied this claim based on fee schedule considerations. The carrier submitted a fee coder affidavit by Crystal Russo CPC in support of its reductions. The parties agreed during the hearing that the sole issue in this matter is whether the carrier properly reduced the charges for CPT code 99354 based on the fee schedule.

Respondent submitted the NF-10 indicating the following:

Paragraph 5 of the NYS Workers' Compensation Guidelines Introduction and 2 General Guidelines states to refer to the CPT book for an explanation of coding rules and regulation not listed in this schedule. Moreover, guidance from the CPT Book and CPT Assistant is incorporated into the no-fault law pursuant to Insurance Law § 5108 and 11 NYCRR § 68.0, 68.1[a][1]. See Glob. Liberty Ins. Co. v. McMahon, 172 A.D.3d 500 (2019). CPT Professional Prolonged Services Guidelines and parenthetical instructions state that CPT codes 99354-99357 cannot be reported with CPT codes 99202-99205 and 99212-99215. Therefore, this charge for prolonged services is denied.

In support of this defense, the Respondent submitted the coder affidavit of Crystal Russo CPC dated 5/16/24. Crystal Russo indicated the following: CPT code 99354 is contained in the NYS Workers' Compensation Fee schedule in the Evaluation and Management Section (E/M) as an add-on code. CPT book lists 99354 with the code descriptor, "Prolonged service(s) in the outpatient setting requiring direct patient contact beyond the time of the usual service; first hour (List separately in addition to code for outpatient Evaluation and Management of psychotherapy service, except with office or other outpatient services [99202, 99203, 99204, 99205, 99212, 99213, 99214, 99215])". Parenthetical instructions distinctly state, "do not report **99354** in conjunction

with 99202, 99203, 99204, 99205, 99212, 99213, 99214, 99215, 99415, 99416, 99417". As an add-on code, CPT 99354 must be reported with a primary service on the same date. See, September 2020 page 3, Prolonged E/M Services Revisions for 2021.

I find the Respondent has met its burden of proof to reduce the Applicant's charges based on the fee coder affidavit of Crystal Russo CPC. The Applicant has failed to submit any fee coder affidavit or evidence in rebuttal. Therefore, the Applicant has failed to meet its burden of proof. Accordingly, the Respondent's denial is sustained and the Applicant's claim is denied.

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 claim is DENIED in its entirety

This award is in full settlement of all no-fault benefit claims submitted to this arbitrator.

State of NY
SS :
County of Nassau

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

08/09/2024
(Dated)

Natia Pavel

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:
e36a3622f90d2012c1462a64879eeb0f

Electronically Signed

Your name: Natia Pavel
Signed on: 08/09/2024