

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Ubase Health & Company Inc.
(Applicant)

- and -

Progressive Casualty Insurance Company
(Respondent)

AAA Case No. 17-23-1311-9794

Applicant's File No. M23-726620

Insurer's Claim File No. 238957842

NAIC No. 24260

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 (LD)

1. Hearing(s) held on 10/09/2024
Declared closed by the arbitrator on 10/09/2024

Christian Guayasamin from Shapiro & Associates, P.C. participated virtually for the Applicant

James Errera from Progressive Casualty Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$2,700.00**, 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 an osteogenesis stimulator provided on 6/12/23 following a motor vehicle accident on 1/19/23. The charges were timely denied based on an IME by Douglas Unis, MD on 5/19/23, effective after 6/1/23. A general denial was issued on 5/30/23. The EIP is a 41 year old male driver.

4. Findings, Conclusions, and Basis Therefor

Applicant seeks reimbursement for an osteogenesis stimulator provided on 6/12/23 following a motor vehicle accident on 1/19/23. The charges were timely denied based on an IME by Douglas Unis, MD on 5/19/23, effective after 6/1/23. A general denial was issued on 5/30/23. The EIP is a 41 year old male driver.

The examiner noted the EIP was a 41 year old restrained male driver who did not go to an ER and began conservative treatment for neck, back, left shoulder and right knee pain. He was working full time as a driver. Gait was normal. On exam of the spine and all extremities there was no spasm or tenderness and ranges of motion were normal. Orthopedic and neurologic testing was negative. Sprains and strains of the spine, knee and shoulder were deemed resolved and there was no further need for treatment.

The IME is detailed and comprehensive and adequately establishes a factual basis for finding the injuries were resolved and that there was no further need for treatment shifting the burden to applicant.

Applicant refers to an exam on 3/26/23 noting left shoulder and right knee pain. He was doing well with improvement. There was noted tenderness and decreased ranges of motion. Motor strength was 4+/5 and orthopedic testing was positive. MRIs showed a medial meniscus tear and adhesive capsulitis. Therapy was continued and surgery was declined.

There are no narrative reports after this exam. There are progress notes which do not document positive objective findings.

The only comprehensive exam is two and a half months before the IME and reflects improvement and continued conservative treatment but there are no comprehensive exams documenting positive objective findings around the time of the IME. The EIP was working without limitations.

I find the evidence insufficient to establish unresolved injuries and that further treatment was necessary.

The denial is sustained.

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 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.

10/14/2024

(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:
5a345874bb3ea177bb9881f4282a0fc6

Electronically Signed

Your name: Camille Nieves
Signed on: 10/14/2024