

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Avenue K Drugs Inc
(Applicant)

- and -

Geico Insurance Company
(Respondent)

AAA Case No.	17-24-1351-2209
Applicant's File No.	AR24-24148
Insurer's Claim File No.	8791331130000001
NAIC No.	35882

ARBITRATION AWARD

I, Carolyn Terrell-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: Claimant

1. Hearing(s) held on 10/23/2024
Declared closed by the arbitrator on 10/23/2024

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

Jerry Marino, Esq. from Geico Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$3,114.80**, 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

The Assignor, AZ, a 39-year-old male, was involved in a motor vehicle accident on 2/24/24. At issue in this case is \$3,114.80 for pharmaceuticals prescribed on 3/5/24. The issue presented is whether the policy was exhausted.

4. Findings, Conclusions, and Basis Therefor

This case was decided based upon the submissions of the parties as contained in the electronic file maintained by the American Arbitration Association, and the oral arguments of the parties' representatives. There were no witnesses. I reviewed the documents contained in MODRIA for both parties and make my decision in reliance thereon.

The threshold issue is whether the policy limit of \$50,000.00 has been exhausted. Ins. Law § 5102 states that basic economic loss means up to \$50,000.00 per person. In *Hospital for Joint Diseases v. Hertz Corp.*, 22 A.D.3d 724 (2d Dept., 2005), the Second Department held "when an insurer has paid the full monetary limits set forth in the policy, its duties under the contract of insurance cease." When an insurer has paid the full monetary limits set forth in the policy, its duties under the contract of insurance cease and an arbitrator would be exceeding his or her authority in issuing an award in excess of the policy limits. *Countrywide Ins. Co. v. Swah*, 272 A.D.2d 245 (1st Dept. 2000). A defense of no coverage due to the exhaustion of a No-Fault insurance policy's limit may be asserted by an insurer despite its failure to issue a NF-10 denial of claim form within the requisite 30-day period. *New York & Presby. Hosp. v. Allstate Ins. Co.*, 12 A.D.3d 579, 580 (2d Dept. 2004).

After carefully reviewing the evidence presented, I find in favor of Respondent. Respondent has demonstrated that \$50,000.00 in no-fault benefits have already been paid by the submission of the payment log noting all payments made under this policy, inclusive of offsets. As such, there is no further coverage available under the subject policy of insurance.

The claim of applicant 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, Carolynn Terrell-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.

11/02/2024

(Dated)

Carolynn Terrell-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:
03f8319ab91e9a5e80d3aca997f5e6db

Electronically Signed

Your name: Carolynn Terrell-Nieves
Signed on: 11/02/2024