

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Health Pro Medical Supply, Inc.
(Applicant)

- and -

LM General Insurance Company
(Respondent)

AAA Case No. 17-24-1353-6312

Applicant's File No. n/a

Insurer's Claim File No. 0564717640005

NAIC No. 36447

ARBITRATION AWARD

I, Michael Achtziger, 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 01/02/2025
Declared closed by the arbitrator on 01/02/2025

Marc L. Schwartz, Esq. from Marc L. Schwartz P.C. participated virtually for the Applicant

Theo Gamble, Esq. by Submission from LM General Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,491.87**, 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 a bed-board, mattress, collar, cervical and lumbar pillow, orthopedic massage seat, and LSO supplied 04/23/24 for this 18-year-old-female after an accident of 03/24/24 medically necessary.

Respondent timely denied this billing based upon the 05/31/24 Peer Review Report of Hayley Rintel Queller, MD.

4. Findings, Conclusions, and Basis Therefor

For Respondent, Dr. Queller noted that the above supplies were prescribed at the initial visit of Quais Sayeed, DO on 04/15/24. He noted that the standard approach for treating musculoskeletal injuries, as here, involves a range of interventions including physical therapy, chiropractic care, acupuncture, pharmaceuticals and injections. In certain cases, mobilization and manipulation are used. He noted that this claimant did not present with significant subjective complaints or physical exam findings to suggest the need for specialized DME.

Dr. Queller noted that the bed-board and mattress are considered an accessory to an in-home hospital bed for bed-bound patients. He noted that the collar is medically unnecessary in the absence of instability or fracture. He noted this emergency room diagnosis of whiplash should not require rest and immobilization and normal pre-injury activities would be facilitating recovery.

As to the cervical pillow, Dr. Queller noted the lack of evidence reporting a shorter recovery time due to the pillow nor did the evidence indicate the claimant adopt better due to the pillow. He noted little evidence supporting the pillow and insufficient evidence to conclude that pillows reduce chronic neck pain.

Regarding the car seat, the doctor noted its use when needs cannot be met by less costly alternatives. He noted as to the lumbar pillow that low quality evidence showed no difference between lumbar supports added to a program compared with a program alone or other active interventions in patients with acute and subacute low back pain.

Finally as to the LSO, Dr. Queller noted this DME is not necessary to immobilize the spine after a sprain/strain injury in order to prevent progressive stiffness and limited range of motion. He opined that immobilization is only required, absent here, in cases of spinal instability, postural dysfunction and traumatic compression fractures.

In a 10/17/24 Rebuttal, Quais Sayeed, DO noted that Dr. Queller disregarded the severity of injuries, and that DME is a part of conservative management. He noted that the bed-board and mattress alleviate neck and back pains by facilitating muscle relaxation. He noted that the collar limits improper mobility and muscular neck activity, and that unlike total immobilization the collar allows for a sufficient amount of movement.

As to the pillow, Dr. Sayeed noted that pillows properly align the spine releasing muscle tension and spasm and that the car seat is imperative for cases with mild to severe neck and back injuries. He noted that the lumbar pillow sits in the small of the back to provide relief.

Finally as to the LSO, Dr. Sayeed noted that the LSO provides for a sufficient amount of movement and prevents further injuries and support.

After review of all evidence, I find that given this patient's initial diagnosis of cervical and lumbar sprains/strains that the cervical and lumbar pillows would be beneficial as noted by Dr. Sayeed. Reimbursement is granted.

However, I find the additional supplies providing partial immobilization (collar and LSO) were not medically necessary in this clinical presentation and find the car seat, absent special need, as not required. I am persuaded by Dr. Queller's analysis as to the bed-board and mattress. Reimbursement is denied.

Accordingly, Applicant is awarded \$44.08.

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 |
|--------------|--|----------------------------|-------------------|-------------------------|
| | Health Pro Medical Supply, Inc. | 04/23/24 - 04/23/24 | \$1,491.87 | Awarded: \$44.08 |
| Total | | | \$1,491.87 | Awarded: \$44.08 |

- B. The insurer shall also compute and pay the applicant interest set forth below. 06/26/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Since the claim in question arose from an accident that occurred on or after April 5, 2002, the insurer shall compute and pay the Applicant the amount of interest computed from AR1 date to payment at the rate of 2% per month, simple, calculated on a pro rata basis using a 30 day month and 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

This case is subject to the provisions as to the attorney's fees promulgated in the Sixth Amendment to 11 NYCRR 65.4 (Insurance Regulation 68D).

- 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 Suffolk

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

01/12/2025
(Dated)

Michael Achtziger

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:
354a1c75016904823f54ace1ca24fdcc

Electronically Signed

Your name: Michael Achtziger
Signed on: 01/12/2025