American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Jeffrey D Hart DO PC d/b/a Hart Orthopedics (Applicant)	AAA Case No.	17-26-1440-4268
	Applicant's File No.	201188
- and -	Insurer's Claim File No.	0782499759
	NAIC No.	29688
Allstate Insurance Company (Respondent)		

ARBITRATION AWARD

I, Anne Malone, 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 08/21/2026
   Declared closed by the arbitrator on 08/21/2026

   Michael Spector, Esq. from The Odierno Law Firm, P.C. participated virtually for the Applicant

   Moshe Cohen Benguigui, Esq. from Law Offices Of Richard Schoenberg participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **$127.41**, 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 23 year old EIP reported involvement in a motor vehicle accident on January 28, 2025; claimed related injury and underwent an office visit provided by the applicant on October 20, 2025.

   The applicant submitted a claim for these medical services, payment of which was timely denied by the respondent based on the IME of the EIP by Anthony Spataro, M.D. which was performed on July 15, 2025. The IME cut-off was effective on August 18, 2025.

The issue to be determined at the hearing is whether the respondent established that the medical services provided by the applicant were not medically necessary.

4. Findings, Conclusions, and Basis Therefor

This hearing was held on Zoom and the decision is based upon the documents reviewed in the Modria File as well as the arguments made by counsel and/or representative at the arbitration hearing. Only the arguments presented at the hearing are preserved in this decision; all other arguments not presented at the hearing are considered waived.

To support a lack of medical necessity respondent must "set forth a factual basis and medical rationale for the IME doctor's determination that there was a lack of medical necessity for the services rendered." Provvedere, Inc. v. Republic Western Ins. Co., 2014 NY Slip Op 50219(U) (App. Term2d, 11th and 13th Jud. Dists. 2014.) Respondent bears the burden of production in support of its lack of medical necessity defense, which if established shifts the burden of persuasion to applicant. See Bronx Expert Radiology, P.C. v. Travelers Ins. Co., 2006 NY Slip Op 52116 (App. Term 1st Dept. 2006.)

The Civil Courts have held that a defendant's peer review or medical evidence must set forth more than just a basic recitation of the expert's opinion. The trial courts have held that a peer review report's medical rationale will be insufficient to meet respondent's burden of proof if: 1) the medical rationale of its expert witness is not supported by evidence of a deviation from "generally accepted medical" standards; 2) the expert fails to cite to medical authority, standard, or generally accepted medical practice as a medical rationale for his/her findings; and 3) the peer review report fails to provide specifics as to the claim at issue; is conclusory or vague. See Nir v. Allstate, 7 Misc.3d 544 (N.Y. City Civ. Ct. 2005.)

To support its contention that the medical services provided to the EIP were not medically necessary, the respondent relied upon the report of the independent medical examination of the EIP by Dr. Spataro, which was objectively negative and unremarkable. Range of motion was determined with the assistance of a goniometer. The report presents a factually sufficient, cogent medical rationale in support of respondent's lack of medical necessity defense. Dr. Spataro performed a complete and comprehensive examination of the EIP which did not identify objective positive findings and determined that there were no residual objective findings and that her injuries related to the subject accident were resolved.

Based upon the physical examination and medical records reviewed, Dr. Spataro determined that despite her subjective complaints, the EIP was not disabled and that she could perform her activities of daily living and working without restrictions. It was Dr. Spataro's opinion that there was no medical necessity for further orthopedic treatment, physical therapy, massage therapy, injections, surgery, prescription medication, diagnostic testing, durable medical equipment, household help or special transportation.

Respondent has factually demonstrated that the medical services at issue were not medically necessary. Accordingly, the burden now shifts to the applicant, who bears the ultimate burden of persuasion. See Bronx Expert Radiology, P.C. v. Travelers Ins. Co., 2006 NY Slip Op 52116 (App. Term 1 Dept. 2006.)

In response to the report of the physical examination of the EIP by Dr. Spataro, the applicant relied upon the submissions, including a follow up evaluation of the EIP by Dr. Hart on October 20, 2025, which referred to a labral tear of the hip and herniated discs which had previously evaluated. The report included some positive findings and recommended continued physical therapy 2 to 3 times a week for 8 weeks.

The submissions also included evaluations from February 20, 2025 to May 13, 2025.

At the May 13, 2025 evaluation, Dr. Hart recommended continued physical therapy 2-3 times a week for 8 weeks. The submissions also included physical therapy chart notes from February 24 to May 6, 2025.

The submission did not contain any evaluations from May 13, 2025, until the evaluation on October 20, 2025.

A review of the applicant's submissions reveals that it has not met the burden of persuasion in rebuttal. The medical records submitted in opposition to the findings of Dr. Hart are insufficient to overcome the burden of production established by respondent.

Based on the foregoing, the respondent has established that the medical services at issue were not medically necessary.

Accordingly, the claim is dismissed with prejudice.

Any further issues submitted in the record are held to be moot and/or waived insofar as they were not raised at the time of this hearing. This decision is in full disposition of all claims for no-fault benefits presently before this Arbitrator.

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 CT
SS :
County of Fairfield

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

09/04/2026
(Dated)

Anne Malone

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:
93deaf9c185e96f22f910453b3fcdda0

Electronically Signed

Your name: Anne Malone
Signed on: 09/04/2026