American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Feel Better Med Equipment Inc (Applicant)	AAA Case No.	17-26-1440-1227
	Applicant's File No.	n/a
- and -	Insurer's Claim File No.	0784913824
	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 09/08/2026
   Declared closed by the arbitrator on 09/08/2026

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

   Shannon Fennell, Esq. from Law Offices Of Richard Schoenberg 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

   The 32 year old EIP reported involvement a motor vehicle accident on February 24, 2025; claimed related injury and received a low intensity ultrasound stimulator provided by the applicant on March 7, 2025.

   The applicant submitted a claim for this durable medical equipment (DME), payment of which was denied by the respondent based upon a peer review by Harold Schechter, M.D. dated April 18, 2025. In response, the applicant submitted a rebuttal dated April 16, 2026 by Diyora Mersaidova, PA who was the prescribing medical provider.

The issue to be determined at the hearing is whether the respondent established that the durable medical equipment at issue was not medically necessary.

4. Findings, Conclusions, and Basis Therefor

This hearing was held on Zoom and the decision is based upon the documents reviewed from 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 defense respondent must "set forth a factual basis and medical rationale for the peer reviewer's [or examining physician'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 report of medical examination must set forth more than just a basic recitation of the expert's opinion. The trial courts have held that a peer review or medical examination 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 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 durable medical equipment provided by the applicant was not medically necessary, respondent relies upon the report of the peer review by Dr. Schechter who reviewed the medical records of the EIP, noted the injuries claimed and the treatment rendered to him. Dr. Schechter considered possible arguments and justification for the need for DME at issue and determined that it was not warranted under the circumstances presented.

Dr. Schechter discussed the standard of care for the musculoskeletal injuries sustained by the EIP and determined that he did not meet these criteria.

He supported, with relevant medical literature, his opinion that this specific DME was not medically necessary for this particular EIP.

Respondent has met its evidentiary burden. The peer review adequately sets forth the factual basis and medical rationale to support the conclusion that the durable medical equipment at issue was not indicated for this particular EIP. Therefore, pursuant to Bronx Expert Radiology, *supra* the burden shifts to the applicant, who bears the ultimate burden of persuasion to establish that the prescription medication at issue were medically necessary.

In opposition to the peer review, the applicant presented a rebuttal by Diyora Mersaidova, PA who disagreed with the conclusions reached by Dr. Schechter and discussed in detail the injuries sustained by the EIP and the treatment rendered to him. She noted that the EIP started on a course of physical therapy on March 3, 2025 and was provided with the ultrasound stimulator on March 7, 2025 before MRI studies were conducted on March 28, 2025. She discussed in general the standard of care for prescribing medical supplies following post-accident trauma without specifically indicating why this specific DME was warranted for this particular EIP.

Diyora Mersaidova, PA discussed the arguments made by Dr. Schechter and referenced the initial evaluation on February 27, 2025, three days post-accident and the MRI studies to support the need for this particular DME which were not conducted until after it was prescribed.

Although Diyora Mersaidova, PA discussed the benefits of this particular DME as part of a treatment plan, she relied upon the initial evaluation to determine that this specific DME was medically necessary for this particular EIP at the time it was provided.

Diyora Mersaidova, PA supported, with relevant medical citations, the general uses and benefits of the ultrasound stimulator as medically necessary for post-accident treatment.

After a review of all the evidence submitted an issue of fact remains as to whether the durable medical equipment provided to the EIP was medically necessary. Conflicting opinions have been presented in the peer review by Dr. Schechter and the rebuttal by Diyora Mersaidova, PA on behalf of the applicant.

In this instance, the applicant failed to submit a rebuttal which sufficiently rebuts the findings of Dr. Schechter. In addition, the medical reports submitted are not sufficient to support her assertions.

Based on the foregoing, I find that the respondent has established that the durable medical equipment at issue was not medically necessary for this particular EIP at the time it was provided.

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.

09/15/2026
(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:
b781c18973e6f7ead46544c164b4c998

Electronically Signed

Your name: Anne Malone
Signed on: 09/15/2026