

**AMERICAN ARBITRATION ASSOCIATION
NO-FAULT/ACCIDENT CLAIMS**

In the Matter of the Arbitration between

(Claimant)

v.
ALLSTATE INSURANCE COMPANY
(Respondent)

AAA CASE NO.: 18 Z 600 03029 00
INS. CO. CLAIMS NO.: 187 3470502
DRP NAME: Kate Rabassa Wallen
NATURE OF DISPUTE: Diagnostic Test,
Income Continuation, Pre-Certification,
Reasonable and Necessary,

AWARD OF DISPUTE RESOLUTION PROFESSIONAL

I, THE UNDERSIGNED DISPUTE RESOLUTION PROFESSIONAL (DRP), designated by the American Arbitration Association under the Rules for the Arbitration of No-Fault Disputes in the State of New Jersey, adopted pursuant to the 1998 New Jersey "Automobile Insurance Cost Reduction Act" as governed by *N.J.S.A. 39:6A-5, et. seq.*, and, I have been duly sworn and have considered such proofs and allegations as were submitted by the Parties. The Award is **DETERMINED** as follows:

Injured Person(s) hereinafter referred to as: claimant.

1. ORAL HEARING held on 8/8/00.
2. ALL PARTIES APPEARED at the oral hearing(s)

No one appeared telephonically.

3. Claims in the Demand for Arbitration were AMENDED and permitted by the DRP at the oral hearing (Amendments, if any, set forth below). STIPULATIONS were not made by the parties regarding the issues to be determined (Stipulations, if any, set forth below).

Novacare, West Jersey Hospital, Dr. Costa/Winslow Family Physician, Dr. Banks, Voorhees Fire District withdrawn; Dr. Brody - \$1,587.00; Regional Orthopedic - \$2,510.00.

4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

Claimant sustained injuries in a motor vehicle accident occurring on 9/15/99. She was examined in the emergency room on the day of the accident, and I find the outstanding bill of Emergency Physicians Associates of South Jersey due and owing in the fee schedule amount of \$160.00. Similarly, I find the bill for South Jersey Radiology Associates for services rendered in reading x-rays for the emergency room treatment

reasonable, necessary and appropriate treatment and award the fee schedule amount of \$93.60.

Claimant also seeks reimbursement of dates of service of Regional Orthopedics between 2/9/00 and 7/27/00. The services rendered include physical therapy between 6/7/00 and 7/27/00 and office visits on 2/9/00, 3/15/00, and 5/3/00. Claimant has submitted a letter from National Healthcare Resources (Bella Erris, RN Case Manager) dated 6/5/00 indicating that physical therapy with Regional Orthopedics was certified as medically necessary starting 6/3/00 to 8/3/00. In light of this, I am awarding the bill of Regional Orthopedics including the three office visits leading up to the physical therapy which was authorized. Respondent was afforded the opportunity to submit documents subsequent to the hearing pursuant to letters from the AAA dated 8/8/00, 8/22/00 and a final extension until 9/13/00 but no documents were submitted.

With respect to the bilateral lower extremity EMG/NCV test, this was performed by Dr. Yulo for Dr. Brody on 2/4/00. There is no evidence that pre-certification was obtained for this test by the provider. Nor is there any evidence that the insurance policy under which benefits are being paid required pre-certification. Respondent did pay for an MRI of the lumbar spine performed on 2/24/00. I find that the EMG/NCV testing of the lower extremities was reasonable, necessary and appropriate based on the claimant's complaints of radiating pain, the medical reports of Dr. Gleimer, submitted by claimant, the fact that respondent paid for the lumbar MRI and authorized physical therapy treatments as set forth above. Because the parties did not raise the issue of any possible non-compliance with pre-certification requirements at the hearing, it is not being considered and the full amount of the bill is awarded subject to reduction based on application of the medical fee schedule, co-payment and deductible amounts by respondent.

Claimant seeks income continuation benefits totalling \$1,763.58. Claimant had an income continuation benefit of \$500.00 per week and according to a disability note from Dr. Druckman (Winslow Family Physicians) was disabled as a result of the car accident from the date of accident until 3/15/00. She received disability benefits from , a state-approved disability insurance carrier at a rate of \$135.66 representing 2/3rds of her average weekly wage of \$203.49 from all employers. (Claimant had worked a full time job on a production line and a part time job as a housekeeper when this accident occurred.) Claimant seeks income continuation benefits based on the difference between \$203.49 and \$135.66 for 26 weeks of disability. I find that claimant is entitled to the income continuation benefits claimed.

Claimant seeks attorney fees totaling \$1,837.50 representing 10.5 hours at \$175.00 per hour. I find that an attorney fee of \$1,000.00 is appropriate pursuant to RPC 1.5 as referenced in AAA Rule 29 as there was no sworn statement taken in this case and the issues were limited.

5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
Regional Orthopedic	\$2,510.00	\$2,510.00	Provider
Ronald Brody, MD	\$1,587.00	\$1,587.00	Provider
Emergency Physicians Assoc. of South Jersey	\$355.00	\$160.00	Provider
South Jersey Radiology Assoc.	\$131.00	\$93.60	Provider

Explanations of the application of the medical fee schedule, deductibles, co-payments, or other particular calculations of Amounts Awarded, are set forth below.

Bills of Regional Orthopedics and Dr. Ronald Brody are awarded subject to reductions by respondent based on application of the medical fee schedule, co-payment and deductible pursuant to New Jersey No-Fault law.

6. INCOME CONTINUATION BENEFITS: Claimed and Awarded
\$1,763.58

7. ESSENTIAL SERVICES BENEFITS: Not In Issue

8. DEATH BENEFITS: Not In Issue

9. FUNERAL EXPENSE BENEFITS: Not In Issue

10. I find that the CLAIMANT did prevail, and I award the following COSTS/ATTORNEYS FEES under N.J.S.A. 39:6A-5.2 and INTEREST under N.J.S.A. 39:6A-5h.

(A) Other COSTS as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): \$325.00 - filing fee

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): 1,000.00

(C) INTEREST is as follows: Awarded in the amount of \$49.61 as calculated by claimant, and inclusive of all outstanding medical bills claimed taking into account fee schedule reductions for all bills .

This Award is in **FULL SATISFACTION** of all Claims submitted to this arbitration.

9/29/2000

Date

Kate Rabassa Wallen, Esq.