

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

In the Matter of the Arbitration between

(Claimant)

v.
ENCOMPASS INSURANCE .
(Respondent)

AAA CASE NO.: 18 Z 600 12855 03
INS. CO. CLAIMS NO.: 08103694
DRP NAME: Herbert S. Alterman
NATURE OF DISPUTE: Under payment

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: LB.

1. ORAL HEARING held on 3/31/04.
2. BOTH PARTIES APPEARED at the oral hearing(s)
NO ONE appeared telephonically.
3. Claims in the Demand for Arbitration were not amended 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).
4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

Claimant provided chiropractic treatment to LB for injuries she sustained in an automobile accident on 9/5/01. Respondent paid for 12 dates of treatments but denied payment for another 19 treatments. Respondent contended that claimant billed for more modalities than it provided on those dates of service.

LB testified in a EUO that she did not receive a chiropractic adjustment on every one of her visits to claimant’s office; he did not crack her back at the beginning of treatment.

Claimant’s 9/11/02 letter, authored by Daryl Serhus, DC, stated that LB received chiropractic adjustments on each of her visits but that the adjustment did not always consist of utilize full spine technique, where the patient’s back “gets cracked.” Some of the treatments LB received consisted of non-force techniques and the use of some light force techniques.

I find that the claimant’s letter is more persuasive than LB’s EOB. Only 4 pages of the EOB has been submitted. The date EOB is not provided and the time lapse between an event and date testimony is taken is always a factor in determining the weight to be given to the testimony. Dr. Serhus, at least, had the benefit of office records to refresh and/or confirm his recollection.

Accordingly, find that claimant provided all of the services it billed for and that the same were medically necessary, reasonable, and causally related to the accident. No interest computation having been submitted, interest is deemed waived.

5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
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Family First Healthcare Ctr a/s/o LB	\$1410	\$1410	Claimant
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Explanations of the application of the medical fee schedule, deductibles, co-payments, or other particular calculations of Amounts Awarded, are set forth below.

The medical fee schedule has been applied. The award is subject to any remaining deductible and copayment.

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| 6. INCOME CONTINUATION BENEFITS: | Not In Issue |
| 7. ESSENTIAL | 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): \$285

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): \$1100.00

(C) INTEREST is as follows: Waived

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

April 30, 2004

Date

Herbert S. Alterman, Esq.