

**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 02259 03
INS. CO. CLAIMS NO.: 4123730089
DRP NAME: Scott G. Sproviero
NATURE OF DISPUTE: MEDICAL
NECESSITY OF TREATMENT
PROVIDED; FEE SCHEDULE

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: the "Injured Party".

1. ORAL HEARING held on July 15, 2003.
2. ALL 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:

Claimants, Paterson Chiropractic Center and Dr. Boris Prakhina, M.D., are the assignees of the Injured Party, which Injured Party suffered bodily injuries when involved in a motor vehicle collision on December 7, 2001. As a result of the injuries so sustained, the Injured Party complained of neck and back pain, and initially consulted Dr. K. Kazan, D.C. of Paterson Chiropractic Center for examination and treatment.

At the time of the subject loss, the Injured Party was insured under a policy of automobile insurance issued by the Respondent, Allstate Insurance Company, with such policy

providing statutory PIP coverage for medical expenses incurred as a result of the December 7, 2001 motor vehicle collision.

The Injured Party first presented to Dr. Kazan on December 13, 2001. Upon examination conducted by Dr. Kazan, the Injured Party was diagnosed as suffering from cervical myofascitis, cervical paraspinal myalgia, brachial neuritis, subluxation of the cervical spine, lumbar sprain/strain, lumbar paraspinal myalgia, lumbar subluxation complex and lumbosacral nerve root irritation. In response to the foregoing diagnosis, Dr. Kazan recommended that the Injured Party pursue a conservative course of chiropractic treatment. The Injured Party abided the recommendation of Dr. Kazan, and commenced chiropractic therapy immediately.

MRI studies conducted during the early stages of chiropractic treatment revealed the presence of disc bulging at C5-6, L4-5 and L5-S1.

The chiropractic therapy administered by Paterson Chiropractic Center continued through July 26, 2002. Due to continuing symptoms and ongoing complaints of lower back pain radiating to the left leg, the Injured Party was referred by Dr. Kazan to Dr. Prakhina, a specialist in pain management, for evaluation.

The Injured Party presented to Dr. Prakhina on May 16, 2002. Upon examination (which included physical examination and conduct of range of motion and muscle strength testing), Dr. Prakhina diagnosed the Injured Party as suffering from lumbar disc displacement with radiculopathy, and accordingly recommended that the Injured Party submit to epidural steroid injections for pain relief. Following Respondent's approval of Dr. Prakhina's request for pre-certification, the epidural steroid injections recommended by Dr. Prakhina were administered to the Injured Party on May 25, 2002.

Following the conduct of a physician advisory review, Respondent notified the Injured Party that medical benefits on account of the chiropractic treatment administered by Dr. Kazan had been terminated, effective April 8, 2002. Notwithstanding the termination of medical benefits, the Injured Party continued treating with Dr. Kazan through July 26, 2002.

In addition, while Respondent has provided medical benefits on account of the initial evaluation conducted by Dr. Prakhina, Respondent has denied medical benefits relating to range of motion testing performed by this provider on May 16, 2002, conducting the same to be included as a service component of the medical examination conducted simultaneously therewith. Moreover, Respondent has withheld payment of medical benefits on account of the epidural steroid injections administered on May 25, 2002, contending that Dr. Prakhina failed to supply sufficient documentation to support the processing of the payment of the same.

The within action was separately initiated on behalf of both of the Claimants herein, each asserting separate claims for the medical benefits referred to above. By way of request of

the parties, the actions of the Claimants were consolidated, and be resolved by way of the within determination.

As to the claims of Dr. Prakhina, the record of the within matter confirms that prior to the conduct of the epidural injections in issue, this Claimant provided Respondent with documentation sufficient to support the granting of pre-certification of the paliative treatment prescribed by the treating physician. Thus, the medical necessity of the epidural injections were recognized by the Respondent prior to the conduct of the challenged procedure. Here, Respondent asserts that the Claimant failed to provide adequate medical records to support payment of benefits relating thereto, contending that this Claimant's application for payment was unsupported by required medical records.

Claimant Prakhina disagrees, contending that his medical billing agent supplied all medical documentation as was requested by Respondent to support the processing of the payment of the medical benefits due in this regard. To that end, this Claimant relies upon a certification of Roman Shaposhnikov, a representative of the Claimant's billing service. By way of such certification, the billing service representative asserts that billing records and supporting documentation were directed to the Respondent for the processing and payment of medical benefits on account of the epidural steroid injections on June 4, 2002. The billing agent further alleges that at the request of the Respondent, such records were re-transmitted on September 11, 2002.

The arbitrator finds the statements of the billing agent to be credible in all respects. Accordingly, the abritrator finds that the claim for medical benefits relating to the conduct of epidural steroid injections were fully supported by the required documentation qualifying the same for payment by Respondent . On that basis, the claim of Dr. Prakhina for medical benefits related to the administration of medical benefits on account of the same shall be awarded in the amount of \$1,610.00, subject to New Jersey fee schedule rates and applicable co-payment and deductible requirements.

Moreover, the arbitrator is satisfied that given the conduct of range of motion testing by Claimant Paterson Chiropractic Center on May 10, 2002, re-performance of the same range of motion testing by Dr. Prakhina is duplicative, and hence medically unnecessary. As such, this Claimant's request for medical benefits on account of the same is denied.

As to the claims of Paterson Chiropractic Center, the arbitrator has carefully reviewed the medical records provided by this Claimant in support of its demand for the payment of medical benefits on account of post-cut off treatment provided by this Claimant. Upon review of this provider's periodic follow-up examination reports and SOAP notes, the arbitrator is satisfied that this Claimant has demonstrated a continuing pattern of gradual improvement to the injuries suffered by the Injured Party through May 10, 2002, when and at which time Dr. Kazan recommended that treatment for pain relief be pursued by the Injured Party under the care and supervision of Dr. Prakhina. In the view of the arbitrator, the weight of the evidence comprising the record of the within proceeding demonstrates that the patient had reached a platuea in recovery as of May 10, 2002,

requiring the treating physician to recommend alternative treatment measures. Accordingly, medical benefits shall be provided to Paterson Chiropractic Center on account of the eighteen (18) post-cut off chiropractic sessions conducted between April 8 and May 10, 2002, in accordance the maximum daily billing limitation. This Claimant shall also be reimbursed for the conduct of range of motion testing conducted on May 10, 2002, as the conduct of such testing was integral to the Claimant's determination to direct the Injured Party to pursue alternate treatment through Dr. Prakhina.

As both Claimants are prevailing parties in the within matter, counsel fees shall be awarded to each in accordance with the criteria set forth at RPC 1.5, and in an amount consonant with the underlying award of medical benefits provided hereby, together with costs. As no interest calculations were submitted in the within matter, interest is deemed waived by the Claimants.

5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
Paterson Chiropractic Center	\$3,062.00	\$1,770.00	Provider
Dr. Boris Prakhina, M.D.	\$2,017.16	\$1,610.00	Provider

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

Award subject to New Jersey fee schedule rates (as to Dr. Prakhina) and applicable co-payment and deductible requirements (as to all Claimants).

6. INCOME CONTINUATION BENEFITS: Not In Issue

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 to each Claimant.

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): \$1,150.00 to each Claimant.

(C) INTEREST is as follows: waived per the Claimant.

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

November 17, 2003

Date

Scott G. Sproviero, Esq.