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: L.N..

1. ORAL HEARING held on 3/15/04.

2. ALL PARTIES APPEARED at the oral hearing(s).

   Claimant 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).

   The claims are amended to $1,919.82

4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

   L.N. was involved in a motor vehicle accident on 8/12/02 from which the within matter arises.

   Nature of Dispute:

   I. Is claimant owed additional reimbursement for EMG/NCV testing?

   II. Were synaptic nerve blocks reasonable and medically necessary?
II. Is claimant entitled to additional reimbursement for range of motion and muscle testing?

The following documentation was submitted for consideration and reviewed:

Claimant: Demand including bill and assignment.
Submission dated 2/9/04 including medical records
Submission dated 2/17/04 including certification bills, EOBs, MRI report, letter of medical necessity, treatment/examination notes.
Certifications of Services.

Respondent:
Submission dated 1/26/04 including: letter memorandum and attachments.

I also heard the arguments of counsel.

I. Claimant began treating LC on 8/16/02. Treatment continued through 11/27/02. Upon initial examination, the patient complained of headaches, neck pain with associated radiation and numbness into the right upper extremity, lower back pain with associated radiation into the right leg. Spasm, restricted range of motion and positive orthopedic tests were noted on examination of the cervical and lumbar spine. Decreased sensation and reflexes were noted on the right upper extremity. MRIs revealed herniations at C4-5 and C5-6 (right) and a disc bulge at C6-7. Due to persisting radicular symptoms, upper EMG/NCV studies were performed on 11/27/02.

Respondent denied payment of certain testing charges based upon the physician advisor determination of Dr. Maiatico. Dr. Maiatico agreed that the MRI and exam findings indicated neurologic testing. However, the extent of the testing was not medically appropriate. Complaints are noted on the right side. Respondent paid those charges identified as appropriate by Dr. Maiatico.

Under Miltner vs. Safeco Ins. Co. of America, 175 N.J.Super. 156 (Law Div. 1980), where there is a dispute as to PIP benefits, the burden rests on the claimant to establish that the services for which he seeks PIP Payment were reasonable, necessary and causally related to an automobile accident. Claimant must carry that burden by a preponderance of the evidence. See, State v Seven Thousand Dollars, 136 N.J. 233 (1994). Pursuant to the administrative code, a medically necessary treatment or test is "consistent with the clinically supported symptoms, diagnosis or indications of the injured person" and "is the most appropriate level of service that is in accordance with good practice and standard professional treatment protocols including the Care Paths [applicable to spinal injuries]. N.J.A.C. 11:3-4.2.

Certain diagnostic tests are recognized as having value in the evaluation and treatment of patients and are reimbursable when medically necessary and consistent with clinically supported findings. Pursuant to N.J.A.C. 11:3-4.5(b)(1), EMGs are reimbursable "when
used in the evaluation and diagnosis of neuropathies and radicular syndrome where clinically supported findings reveal a loss of sensation, numbness or tingling." EMGs are generally not performed within 14 days of the accident.

Similarly NCV studies are "reimbursable when used to evaluate neuropathies and/or signs of atrophy." N.J.A.C 11:3-4.5(b)(3). NCV studies are generally not performed within 21 days of the accident.

Based on the medical evidence, I find that the provider has not satisfied its burden as to medical necessity of additional testing such that additional reimbursement would be owed. There is no indication for left sided upper extremity testing or H-Reflex studies. CPT code 95903 is inclusive of CPT code 95900.

II. On 4 occasions, synaptic high-frequency stimulation/nerve blocks were administered to the cervical area (brachial flexor). This corresponds to the area of reduced reflex and in the patient. Due to the clinically supported chronic nature of the patient's pain and MRI findings, the service was recommended as an adjunctive treatment. There were no contraindications in this patient and the physician maintains that efficacy is demonstrated for such treatments. The patient is noted to have responded to the treatments. Pain levels were noted as reduced.

Dr. Maiatico states the service is experimental and is not indicated in the patient.

I find that the provider has sustained its burden as to the medical necessity of the service. The provider provides sufficient explanation as to the indications for the treatment in the patient. Low level stimulation had been utilized in this patient without significant success. The patient responded favorably to the treatment. The provider is owed $716 in accordance with its usual and customary charge.

III. Based on the EOBs and payment ledger, services as of 10/25/02 were paid at 50% due to the failure to submit proper pre-certification for this date. The documentation submitted supports the penalty. However, in reviewing EOBs and billing records for date of service 10/25/02, a charge by claimant for muscle testing properly billed under CPT code 95833 was erroneously entered as CPT code 95933 and denied as unsupported. The charge for CPT code 95833 was proper and should be paid ($114.35) subject to the penalty.

Based upon a peer review, additional charges for range of motion studies and manual muscle testing was denied as not being medically necessary. Specifically, these charges are not separately billed as they are included in a normal patient examination. The testing was performed on the same date as a examination. No separate reports are submitted as to range of motion studies on the dates in question. Manual muscle testing prior to the dates in question (11/20/02 and 12/20/02) was completely normal. There is no medical justification to continue manual muscle testing as progress would not be assessed. I find the denial of these charges was properly denied as a separate charge.

No interest calculation or argument was presented to support an award of interest in this matter and the claim is deemed waived.

5. MEDICAL EXPENSE BENEFITS:

<table>
<thead>
<tr>
<th>Provider</th>
<th>Amount Claimed</th>
<th>Amount Awarded</th>
<th>Payable to</th>
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<tbody>
<tr>
<td>Pain Mgt. &amp; Rehab.</td>
<td>$1,919.82</td>
<td>$773.18</td>
<td>Provider</td>
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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 amount awarded is subject to the New Jersey Fee Schedule, co-payment and deductible obligations of L.N.

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


   (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): $1,100.00
(C) INTEREST is as follows: waived per the Claimant. $ .

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

3/26/04                        Nanci G. Stokes, Esq.
Date