

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

In the Matter of the Arbitration between

(Claimant)

v.
HANOVER INSURANCE COMPANY
(Respondent)

AAA CASE NO.: 18 Z 600 11910 02
INS. CO. CLAIMS NO.: 10320431
DRP NAME: Maria I. Daniskas
NATURE OF DISPUTE: Reasonable &
necessary; pre-certification; reductions

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: BB.

1. ORAL HEARING held on 1/27/03.
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 made by the parties regarding the issues to be determined (Stipulations, if any, set forth below).

The parties stipulated that claimant did not submit request for pre-certification for dates of service 11/27/01, 11/28/01, 12/4/01, 12/7/01 and 12/11/01.

4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

Claimant seeks payment of unpaid bills for chiropractic care, lower NCV test, as well as TENS unit and cervical pillow.

BB was involved in a motor vehicle accident on 6/1/01. On 6/18/01, he presented to Dr. Nisivoccia (claimant) for complaints of cervical pain radiating down right arm and lumbar pain radiating down right leg. A cervical MRI scan of the cervical spine revealed a bulge at C4-5, as well as straightening of the cervical lordotic curve suggesting

correlation with muscle spasm. He was begun on a course of chiropractic treatment, for which respondent made payment. His request for pre-certification for additional chiropractic care was denied on 10/22/01 as per physician review performed by Dr. Houston, who found there that there were insufficient records to verify ongoing treatment. Claimant herein seeks unpaid chiropractic bills for treatment rendered from 10/30/01 through 12/11/01, as well as a TENS unit and cervical pillow.

In support of his claim for the additional chiropractic treatment, claimant submitted progress notes, a set of pre-certification requests ranging from 7/18/01 through the last request of 11/26/01, as well as narrative report dated 12/5/01. These records indicate that BB continued to complain of cervical, thoracic and lumbar pain with radiation down right arm and right leg, as he exhibited positive clinical findings including decreased muscle strength, reflexes and sensation and tingling pain. In the pre-certification request dated 11/26/01, Dr. Nisivoccia requested approval for a home TENS unit for chronic cervical pain and muscle spasms. He noted that BB had decreased range of motion and head tilt, and he opined that the unit would be useful to speed recovery with home use. There was no mention of a cervical pillow.

Claimant provided copies of proof of requests for pre-certification of seven dates of service between 10/30/01, but stipulated that pre-certification had not been properly submitted for five dates of service between 11/27/01 and 12/11/01 (see #3.) Claimant argued that respondent failed to properly respond within three business days to the 10/12/01 pre-certification request, but instead on 10/22/01 mailed out by regular mail a physician review denial.

Based on the documentation submitted, I find that the claimant has proved by a preponderance of the evidence that the subject chiropractic treatment and TENS unit were reasonable, medically necessary and causally related. However, there was insufficient proof to establish the need for the cervical pillow. The chiropractic treatment is subject to the daily cap of \$90. Claimant is awarded \$630 for dates of service between 10/30/01 and 11/20/01, \$225 for dates of service between 11/27/01 and 12/11/01 (50% pre-certification penalty reflected) and \$176.73 for the TENS unit (reflective of fee schedule reduction and 50% pre-certification penalty.)

Lastly, claimant seeks a balance of lower NCV testing. Claimant billed \$1,464 and respondent reimbursed \$516.77. According to the new fee schedule, claimant is entitled to a rate of \$111 for CPT code 95903 and a rate of \$71 for CPT code 95904 and \$80.50 for CPT code 95934. Claimant is awarded the balance of \$229.41.

Claimant submitted a certification of services. Pursuant to AAA Rule 30, I find that \$1,000 is a reasonable attorney's fee in this matter. Claimant waived interest.

5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
Central Health Group	\$3,130.08	\$1,261.14	provider

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

Subject to any remaining copayments and deductibles, only.

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

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): \$1,000

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

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

3/11/03
Date

Maria I. Daniskas, Esq.