

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

In the Matter of the Arbitration between

(Claimant)

v.
Selective Insurance Company
(Respondent)

AAA CASE NO.: 18 Z 600 14083 1
INS. CO. CLAIMS NO.: 01681462
DRP NAME: Nora J. Brodow
NATURE OF DISPUTE: Late
notification

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: Assignor KM.

1. ORAL HEARING held on January 7, 2003.
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).

Claimant amended the amount claimed to \$917.00 for dates of service 9/27/99 to 10/11/99.

4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

The parties advise that this matter is subject to the provisions of AICRA.

This matter arises from an automobile accident on September 22, 1999 in which the assignor KM alleges injuries sustained. KM sought treatment with claimant chiropractor. In dispute is the claimant provider's bills for treatment rendered from 9/27/99 through 10/11/99.

Respondent has denied payment predicated on the defense that claimant provider did not comply with with N.J.A.C. 11:3-25.1 et seq. Respondent argued that it never received notice of first treatment from Dr. Hajo for this patient. Respondent argued that the first notice it received that a claim was being asserted was on March 5, 2002 when claimant counsel contacted DB, respondent PIP Claims Unit Supervisor with regard to an arbitration hearing.

Claimant counsel submitted the Affidavit of JQ, claimant provider administrative assistant who was employed in that position from at the time the assignor received treatment. JQ affirms that her responsibilities included obtaining information regarding the identity and address of the PIP insurer and forwarding various documentation including report of accident, notification of treatment, medical bills, medical notes and correspondence to the PIP insurer. JQ affirms that on September 27, 1999 she ascertained that KM was entitled to PIP benefits under a policy of insurance issued by Selective to SM. On that date, JQ stated she confirmed the address for Selective Insurance as P.O. Box 399, Wantage Avenue, Branchville, N.J. 07890. On that date, JQ stated that she forwarded the Report of Accident and Notification of Treatment to respondent at the Branchville address via regular mail. JQ further stated that on October 11, 1999, she forwarded three page bill to respondent via regular mail at the aforementioned address. A copy of the notification of treatment is dated 10/9/99 and indicts the name and address of the patient, the insured, the policy number (arguably incorrect), the date of accident and the date of first treatment.

Respondent submitted the Affidavit of DB, respondent PIP Unit Supervisor. DB states that in September 1999, PIP claims were being handled out of the Selective office in Branchville as well as the Selective office in Hamilton. Since that time, a shift has been made and all PIP claims now are handled out of the Hamilton office. DB further states that she is familiar with this matter and has reviewed Log notes, a portion of which were submitted. DB states that prior to a telephone call from claimant counsel on the eve of an arbitration hearing, there was no notice that a PIP claim was ever made on the file and that "we did not receive any papers from the American Arbitration Association or any notice of the hearing." DB further states "the only entry that even has a slight resemblance to any PIP claim is the January 25, 2002 entry by LW indicating that an outstanding bill from the American Arbitration Association for \$275.00 was paid." DB concludes that it would be understandable if one piece of mail had gotten misplaced, it is highly unlikely and unusual that all the correspondence related to the PIP claim of KM would not have reached its proper destination.

I have reviewed the submissions and argument of counsel and the various file correspondence. DB states that respondent did not receive any papers or notice of hearing from the American Arbitration Association (AAA); however, the file includes five pieces of correspondence dated August 30, 2001 through April 4, 2002 mailed from AAA to respondent representative Erika George at the Branchville, N.J. office. In addition, the log entry noting that an outstanding bill from AAA for \$275.00, respondent administrative fee, had been paid indicates that respondent received correspondence relating to and had knowledge of the PIP claim filed for KM. Respondent had knowledge

of the subject accident and a claim for property damage. Having considered the evidence presented, it would appear that claimant's notification of treatment and the bills for same were sent to respondent's Branchville office at the time respondent maintained two offices handling PIP claims. It appears likely that correspondence sent to the Branchville office may not have been forwarded to the Hamilton office. I find claimant has sustained its burden of proof.

I further award attorney's fees and costs pursuant to Rule 30. There was no submitted calculation to support an award of interest. It is deemed waived.

5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
Dr. Zaher Hajo	\$917.00	\$917.00	Provider

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

The amount awarded is subject to the fee schedule, co-payment, deductible, multiple modality reduction.

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

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicate: \$875.00

(C) INTEREST is as follows: Waived.

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

March 13, 2003

Date

Nora J. Brodow, Esq.