

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

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In the Matter of the Arbitration between

(Claimant)

v.  
SECURITY INDEMNITY INSURANCE CO.  
(Respondent)

AAA CASE NO.: 18 Z 600 19431 1  
INS. CO. CLAIMS NO.: S0003001  
DRP NAME: John J. Fannan  
NATURE OF DISPUTE: Eligibility, Fee  
Schedule

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**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: GM, AM & OM.

1. ORAL HEARING held on March 28, 2002.
2. NO ONE APPEARED at the oral hearing(s) for Respondent.

NO ONE appeared telephonically.

DRP called three (3) separate individuals at the offices of the respondent on the date and time of the hearing and left three (3) separate messages on three (3) separate answering machines. I received no response by telephone. However, the hearing was held open and the respondent did make post-hearing submissions.

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:

This is a claim which arises out of an automobile accident which occurred on March 9, 2001. At the time, claimants OM and AM were passengers in a vehicle owned and

operated by claimant GM. Claimant GM the holder of a policy of automobile insurance issued to him by the respondent.

The claimants came under the care of Epstein Chiropractic on or about March 13, 2001 and continued in the care of that facility to approximately September, 2001. It is alleged there is due and owing a balance of \$1,370.77 for treatment rendered to GM, comprised primarily of improper reductions in payments made by the respondent. Specifically, the respondent applied Region 2 reimbursement rates when in fact all services were rendered in Region 3. Also, the entire bill of \$6,314.09 for claimant AM remains open and unpaid as does the entire bill for claimant OM (\$6,256.59).

Respondent argued all outstanding bills for claimant GM had been paid in accordance with the New Jersey Fee Schedule. With respect to claimant AM, the respondent argues that no payments were made pending receipt of an Affidavit of No Insurance which they indicate was not received. It is noted that there is an Affidavit of No Insurance in the file signed by claimant AM.

With respect to claimant OM, the respondent has performed a DMV check and determined that according to DMV records, claimant OM was the registered owner of a 1999 Chrysler as of the date of loss. A further check indicated that the plates for this vehicle were issued on 2/13/01 and were not surrendered until 6/14/01. Thus, payment was denied on the basis that claimant OM was the owner of a motor vehicle that was being operated without Personal Injury Protection coverage.

Dr. Epstein who was present and testified at the hearing, verified that claimant OM had provided an Affidavit of No Insurance. Thus, pursuant to NJAC 39:6A-7(b)(1), claimant OM would not be eligible for PIP benefits.

The following documents were submitted for review and consideration:

- Demand for Arbitration;
- Bills;
- Police report;
- PIP Applications;
- Affidavit of No Insurance (AM);
- Reports of Dr. Epstein;
- Notification of treatment letters;
- Bills summaries;
- Letter to carrier, re: GM (11/13/01);
- Explanations of Benefits (GM);
- Certification of Services;
- Payment Ledger;
- Respondent's letters to GM, re: IME scheduling;
- Respondent's letters to AM, re: Affidavit of No Insurance;
- Results of Motor Vehicle Search.

With respect to claimant OM, I am satisfied that the respondent has presented sufficient evidence to indicate that OM was the owner of an uninsured motor vehicle at the time of the happening of this accident and therefore is ineligible for receipt of PIP benefits. Therefore, the claim of claimant OM is denied.

With respect to the claim of claimant GM, I am satisfied that Dr. Epstein, through his testimony and his reports and records, has established that the treatment provided was reasonable, medically necessary and for a condition or conditions causally related to the subject accident. I am equally satisfied that improper reductions to the bills of Dr. Epstein were taken by the respondent, based upon the application of the incorrect service region to the reductions. These reductions amounted to \$811.85 and that amount is awarded. The balance of Dr. Epstein's bills for GM (\$558.92) was submitted for payment and I am satisfied paid by the respondent.

Further, I find that the reports and records submitted, as well as the testimony of Dr. Epstein, do establish to a preponderance of the evidence that the treatments rendered to claimant AM were reasonable, medically necessary and for a condition or conditions causally related to the subject accident. I am satisfied that claimant AM did execute an Affidavit of No Insurance which Affidavit of Insurance has been provided to the respondent. Therefore, the bill of Epstein Chiropractic for services rendered to claimant AM (\$6,314.09) is awarded in its entirety.

The amount awarded on behalf of claimant AM is subject to reduction by application of the New Jersey Fee Schedule, Multiple Procedure Reduction Formula and such portion of that claimant's deductible and co-payment as may remain open and unsatisfied.

Inasmuch as no calculation of interest has been provided, the claim for interest is deemed to have been waived.

I further find that the claimants were successful and are entitled to an award of counsel fees. Counsel for the claimant submits a Certification of Services seeking counsel fees in the amount of \$1,560.00 together with total costs of \$327.50.

I find that an award of counsel fees in the amount of \$950.00 is consonant with the amount awarded hereunder and is consistent with the requisites of RPC 1.5 as well as consistent with the degree of expertise, effort and experience required for a successful prosecution of the claim. I also award costs in the amount of \$325.00.

This matter was the subject of an oral hearing conducted on March 28, 2002. At the hearing, no one appeared for the respondent. I made three (3) telephone calls to three (3) different individuals (Pam Trocchia, Melinda Brown Miller and Kristen Schmitt) at the offices of the respondent and left messages on each of their answering machines. I received no response and the hearing was adjourned. However, the hearing was held open to afford the parties the opportunity to make additional submissions. Respondent did avail itself of the opportunity to make such additional submission. The documents submitted were considered by the DRP.

## 5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
Epstein Chiropractic for OM	\$6,256.59	-0-	
Epstein Chiropractic for GM	\$1,370.77	\$811.85	Epstein Chiropractic
Epstein Chiropractic for AM	\$6314.09	\$6314.08	Epstein Chiropractic

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

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 indicated): \$950.00

(C) INTEREST is as follows: Not In Issue .

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

June 4, 2002

Date

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John J. Fannan, Esq.