

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

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In the Matter of the Arbitration between

(Claimant)

v.  
SELECTIVE INSURANCE  
(Respondent)

AAA CASE NO.: 18 Z 600 04193 03  
INS. CO. CLAIMS NO.: 20081781  
DRP NAME: Maria I. Daniskas  
NATURE OF DISPUTE: Reasonable &  
medically necessary pre-certification

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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: MM.

1. ORAL HEARING held on 3/10/04.
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).

The parties have stipulated that any award is subject to respondent's pre-certification penalty.

4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

Claimant seeks payment of charges for manipulations under anesthesia ("MUAs"), performed By Dr. Ferraro on MM for relative to injuries sustained in a motor vehicle accident on 10/29/01.

MM received 44 chiropractic treatments with Dr. Beynin from 11/6/01 through 3/22/02. A cervical MRI scan performed on 10/7/01 confirmed a disc bulge at C5-C7.

On 8/12/02, she was referred to Dr. Lipsky for pain management treatment. According to his 2/26/03 report, Dr. Lipsky stated that she was evaluated and deemed an appropriate candidate for pain procedures in the form of MUAs in conjunction with cervical steroid epidural injections, based on the criteria for MUAs as published by the National Academy of MUA Physicians. MM responded well to the combination of injections and manipulations, decreasing her pain level from a level "6-7" on the Visual Analog Scale to a "4" with less frequent headaches. However, the pain relief was temporary and she returned to pre-treatment levels within one (1) week.

Respondent terminated PIP benefits for chiropractic care effective 4/2/02, based on the IME of Dr. Addesa, who found that MM's cervicalgia and lumbar sprain/strain had resolved. Respondent granted pre-certification of the injection therapy, however the pre-certification request did not include a request for authorization of MUAs. Respondent submitted a peer review of Dr. Cuccaro, who also testified at the arbitration hearing. The reviewer opined that the benefit of MUAs is questionable, and the clinical documentation provided by claimant in this matter is problematic and does not support the need for the MUAs. Dr. Cuccaro testified that it is irrelevant that injections were pre-certified, as there has been insufficient documentation submitted to establish medical necessity for the MUAs. He further testified that the pre-printed, operative reports are entitled "manipulation under joint anesthesia", but the form of anesthesia noted is "IV sedation.". Therefore, he cannot tell how the services were actually performed. Moreover, he criticized the pre-printed operative reports for not complying with the requirements for contemporaneous reports of a procedure performed with anesthesia.

Where there is a dispute, the burden rests on the claimant to establish that the services for which he seeks PIP payments were reasonable, necessary and causally related to an automobile accident. MILTNER v. SAFECO INS. CO. OF AMERICA, 175 N.J. Super. 156, 158 (Law Div. 1980). I find that the documents submitted by claimant do not establish medical necessity by a preponderance. The operative reports are pre-printed, and provide no specifics about this patient. In his report, Dr. Lipsky concludes that MM was a appropriate candidate for the MUAs according to the protocols, but fails to set forth what they are. Moreover, Dr. Lipsky stated that the pain relief was "unfortunately only temporary", as the patient returned to pre treatment levels within one (1) week. If that was the case, there is further lack of substantiation for the two (2) subsequent MUAs. The claim is hereby denied.

5. MEDICAL EXPENSE BENEFITS:

Denied

Provider                      Amount Claimed              Amount Awarded      Payable to

Provider	Amount Claimed	Amount Awarded	Payable to


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 not prevail, and I award no 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):

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated):

(C) INTEREST is as follows: Not In Issue

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

4/24/04  
Date

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Maria I. Daniskas, Esq.