

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

In the Matter of the Arbitration between

(Claimant)

v.
ALLSTATE INSURANCE COMPANY
(Respondent)

AAA CASE NO.: 18 Z 600 03017 03
INS. CO. CLAIMS NO.: 4123893051
DRP NAME: Margaret Knuetter
NATURE OF DISPUTE: Medical
necessity

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: FN.

1. ORAL HEARING held on 6/5/03.
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 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:

There is an error in the caption of this case as the insured is JN and the patient is FN. This is a claim for payment of a bill incurred by FN for a lumbar MRI.

Claimant submitted the following:

HCFA from claimant
CPT worksheet
Assignment
PIP application

Insurance ID card

Report of Arthur Greene, MD of Advanced Diagnostics, dated 9/5/02 re MRI of lumbar spine with findings of thinly based posterior bulges at L3-4 and L4-5

Letter of medical necessity for MRI of lumbar spine, dated 9/5/02 and signed by D. Beynin, DC. Dr Beynin states that since the accident of 8/29/02, FN has been complaining of constant low back pain radiating to both legs, numbness, tingling, paresthesias around, muscle weakness, multiple areas of tenderness along the lumbar spine, muscle trigger points, lumbar paraspinal muscles spasm. He is ordering MRI of the lumbar spine to rule out a HNP and to assist him in determining the appropriate course of future treatment.

Report of Dr. Beynin dated 9/17/02. Dr. Beynin states that on initial evaluation, FN was suffering from severe neck pain, upper left and mid left thoracic pain, severe pain in the left thoracolumbar group, severe pain in the left iliolumbar group of the lower back, severe pain in the left gluteal muscle group, hyperesthesia on the left side at the dermatome zone of the C7 spinal Nerve and hyperesthesia on the left side of the dermatome zone of L5 Lumbar Nerve Root. Objective tests that were positive include: Heel- walk test, cervical distraction test, Jackson Compression test, shoulder depression, Spurling's, Bragard's, Lasague and Kemps.

Respondent submitted the following:

Physician Advisor determination, dated 2/21/03 by Rick Guma, DC. Dr. Guma states that MRI's are not typically performed within the first month of conservative treatment for soft tissue spinal injuries. They are considered when there are gross motor deficits or perhaps serious neurological insult or rapid deterioration of the patient's condition. The documentation did not reflect such here. He concludes that the MRI's do not appear to be clinically supported and medically necessary.

I have reviewed the submissions of the parties and find that claimant has sustained the burden of proving that the testing was medically necessary. The demand will be allowed subject to reduction for deductible, copayment and fee schedule as applicable. Interest has not been calculated and is deemed waived. Attorney fees and costs are awarded.

5. MEDICAL EXPENSE BENEFITS:

Awarded

| Provider | Amount Claimed | Amount Awarded | Payable to |
|---|----------------|----------------|---------------------|
| Advanced Diagnostic Imaging of New Jersey | \$819.09 | \$819.09 | Claimant & attorney |
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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.

Award subject to reduction for deductible, copayment and fee schedule as applicable.

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 filing fee

(B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): \$800

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

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

9/2/03
Date

Margaret Knuetter, Esq.