

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

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In the Matter of the Arbitration between  
(Claimant)

V.

**AAA CASE NO.: 18 Z 600 04031-03**  
**INS. CO. CLAIM NO.: 0167212**  
**DRP NAME: Michael K. McFadden**  
**NATURE OF DISPUTE: Medical**  
**Necessity**

RUTGERS CASUALTY INS. CO.  
(Respondent)

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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: Claimant

1. ORAL HEARING held on June 11, 2003.
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:

This matter involves an automobile accident that occurred on July 11, 2001. I find that the claimant was a covered person under the automobile insurance policy issued by the respondent on the date of the accident.

I have reviewed both parties' arbitration brochures with attachments. In addition, the claimant provided oral testimony at the arbitration. The claimant is a 47 year-old female. As a result of the accident that claimant alleged lumbar and cervical injury. One of the primary issues presented in this case was whether the development of Bell's Paresis is related to the automobile accident. Treating physician, Dr. Godfrey, MD, indicated that neurologist, Dr. Altamirano concluded that the Bell's Palsy was related to the air bag contusion to the face. I have reviewed the report from Dr. Altamirano dated

September 5, 2001. Dr. Altamirano concludes that right Bell's Paresis is "perhaps" post traumatic related. In addition, in a report from Dr. Godfrey dated August 15, 2001, he indicates that it appeared that the claimant was developing Bell's Palsy, "for reasons I don't know".

The respondent presents an orthopedic independent medical exam from Dr. DeJong dated December 12, 2001. Dr. DeJong, MD notes that the proximate cause of Bell's Palsy is beyond his practice perimeters.

I find that it is the claimant's burden to establish by a preponderance of the medical evidence that the medical treatment was necessary and related to the automobile accident. I find that the claimant has failed to establish by a preponderance of the medical evidence that the Bell's Palsy condition is related to the automobile accident.

I do find that the physical therapy rendered by Atlantic Industrial and Family Medical Associates was medically necessary and related to the automobile accident and award payment consistent with the medical fee schedule.

I am awarding Counsel fees of \$750.00 and costs of \$325.00. I am making this ruling consonant with the bills awarded in this matter as well as the factors set forth in Rule 1.5 of the Supreme Court, Rules of Professional Conduct.

#### 5. MEDICAL EXPENSE BENEFITS:

Awarded

Provider	Amount Claimed	Amount Awarded	Payable to
Atlantic City Medical Center	\$2,299.00	\$0.00	
Leeds Medical Physicians	\$464.00	\$0.00	
Atlantic Radiologist	\$231.00	\$0.00	
Atlantic Industrial	\$1,116.13	\$1,116.13*	Claimant/Attorney

\*Subject to the medical fee schedule, co-pay and deductible.

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): \$750.00

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

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

July 16, 2003  
Date

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Michael K. McFadden, Esq.