

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Keystone Laboratories Inc
(Applicant)

- and -

American Transit Insurance Company
(Respondent)

AAA Case No. 17-17-1081-0210

Applicant's File No. KSL 53.02

Insurer's Claim File No. 795646

NAIC No. 16616

ARBITRATION AWARD

I, Jeffrey Held, the undersigned arbitrator, designated by the American Arbitration Association pursuant to the Rules for New York State No-Fault Arbitration, adopted pursuant to regulations promulgated by the Superintendent of Insurance, having been duly sworn, and having heard the proofs and allegations of the parties make the following **AWARD**:

Injured Person(s) hereinafter referred to as: Eligible Injured Person "EIP"

1. Hearing(s) held on 04/26/2019
Declared closed by the arbitrator on 05/15/2019

Michael Lamond, Esq. from Akiva Ofshtein PC participated in person for the Applicant

Ethan Rothschild, Esq. from American Transit Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 3,660.20**, was NOT AMENDED at the oral hearing.
Stipulations WERE NOT made by the parties regarding the issues to be determined.
3. Summary of Issues in Dispute

In dispute, inter alia, is the medical necessity a claim for urinalysis for date of service July 23, 2017, as performed as part of a treatment/diagnostic plan for the EIP, a 42-year-old male with a history of a March 31, 2017 motor vehicle accident, with reported injuries, inter alia, to the neck, lower back, right knee and right shoulder, denied based upon a

November 20, 2017 peer review from John Charles Megarr, III, MD, board-certified in physical medicine and rehabilitation. Further at issue is the timeliness of the denial of claim.

4. Findings, Conclusions, and Basis Therefor

Pursuant to 11 NYCRR 65-4.5 (o)(1), an arbitrator shall be the judge of the relevance and materiality of the evidence offered. The arbitrator may question any witness or party and independently raise any issue that the arbitrator deems relevant to making an award that is consistent with the Insurance Law and Department Regulations.

This award is rendered based upon the documents that appear in the ADR center, as well as the arguments and concessions made at the time of the hearing. There were no witnesses at the hearing.

The claim was heard with other link claims, including AAA case 17-17-1081-0209, wherein Respondent relies, in part, a peer review held to be facially insufficient.

After due consideration, I find that my award in the aforesaid linked claim is dispositive at bar. In such posture, the parties are respectfully referred thereto.

Award for Applicant in the amount of \$3,660.20, plus interest and attorney's fees, in accord with LMK Psychological Services PC v. State Farm Mutual Auto Insurance Company, 12 N.Y. 3d 217, 879 N.Y.S. 2d 14 (2009), and as computed as per opinion letter of the Office of General Counsel of the NY Insurance Department No. 3-10-04 [Oct. 2003]. Applicant is further awarded return of filing fee. Any further issue raised in

the hearing record is held to be moot and/or waived insofar as not raised at the hearing.

5. Optional imposition of administrative costs on Applicant.
Applicable for arbitration requests filed on and after March 1, 2002.

I do NOT impose the administrative costs of arbitration to the applicant, in the amount established for the current calendar year by the Designated Organization.

6. **I find as follows with regard to the policy issues before me:**

- ☐ The policy was not in force on the date of the accident
- ☐ The applicant was excluded under policy conditions or exclusions
- ☐ The applicant violated policy conditions, resulting in exclusion from coverage
- ☐ The applicant was not an "eligible injured person"
- ☐ The conditions for MVAIC eligibility were not met
- ☐ The injured person was not a "qualified person" (under the MVAIC)
- ☐ The applicant's injuries didn't arise out of the "use or operation" of a motor vehicle
- ☐ The respondent is not subject to the jurisdiction of the New York No-Fault arbitration forum

Accordingly, the applicant is AWARDED the following:

A.

Medical		From/To	Claim Amount	Status
	Keystone Laboratories Inc	07/23/17 - 07/23/17	\$3,660.20	Awarded: \$3,660.20
Total			\$3,660.20	Awarded: \$3,660.20

- B. The insurer shall also compute and pay the applicant interest set forth below. 12/06/2017 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

The interest rate shall be 2% per month, simple, on a pro rata basis using a 30 day month. The insurer shall compute and pay Applicant from December 6, 2017, the date of filing, to the date of payment of the award.

C. Attorney's Fees

The insurer shall also pay the applicant for attorney's fees as set forth below

As this matter was filed after February 4, 2015, this case is subject to the provisions promulgated by the Department of Financial Services in the Sixth Amendment to 11 NYCRR 65-4 (Insurance Regulation 68-D). Accordingly, the insurer shall pay the applicant an attorney's fee, in accordance with 11 NYCRR 65-4.6(d).

- D. The respondent shall also pay the applicant forty dollars (\$40) to reimburse the applicant for the fee paid to the Designated Organization, unless the fee was previously returned pursuant to an earlier award.

This award is in full settlement of all no-fault benefit claims submitted to this arbitrator.

State of New York

SS :

County of New York

I, Jeffrey Held, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

06/14/2019
(Dated)

Jeffrey Held

IMPORTANT NOTICE

This award is payable within 30 calendar days of the date of transmittal of award to parties.

This award is final and binding unless modified or vacated by a master arbitrator. Insurance Department Regulation No. 68 (11 NYCRR 65-4.10) contains time limits and grounds upon which this award may be appealed to a master arbitrator. An appeal to a master arbitrator must be made within 21 days after the mailing of this award. All insurers have copies of the regulation. Applicants may obtain a copy from the Insurance Department.

ELECTRONIC SIGNATURE

Document Name: Final Award Form
Unique Modria Document ID:
7cce3d2823de4bbe4960a9544536c291

Electronically Signed

Your name: Jeffrey Held
Signed on: 06/14/2019