

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Columbus Imaging Center
(Applicant)

- and -

Geico Insurance Company
(Respondent)

AAA Case No.	17-18-1087-1706
Applicant's File No.	N/A
Insurer's Claim File No.	0239457500101063
NAIC No.	35882

ARBITRATION AWARD

I, Matthew K. Viverito, 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: EIP

1. Hearing(s) held on 07/23/2019
Declared closed by the arbitrator on 07/23/2019

Rajesh Barua from The Law Offices of Hillary Blumenthal P.C. participated in person for the Applicant

Robert Sheridan from Geico Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, \$ **1,837.68**, 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

Whether respondent can establish that the services at issue were not medically necessary.

4. Findings, Conclusions, and Basis Therefor

This hearing was conducted using documents contained in MODRIA. Any documents contained in the folder are hereby incorporated into this hearing. I have reviewed all

relevant exhibits contained in MODRIA maintained by the American Arbitration Association.

The EIP, RB, a 36 year-old female, was involved in a motor vehicle accident on 7/19/16 as a driver. She thereafter received medical treatment from applicant on 8/27/16 in the amount of \$1,837.68. The services at issue consist of MRIs of the cervical and lumbar spine.

Respondent denied the within claim based on the allegation that the services at issue were not medically necessary.

Regarding the issue of medical necessity, respondent presented peer review reports by Isandr Dumesh, M.D. Applicant presented a formal rebuttal from the referring doctor, Albert Ciancimino, M.D.

In his peer review reports, Dr. Dumesh stated that the performance of the MRIs would not change the claimant's therapy or assist in future diagnosis.

In rebuttal, Dr. Ciancimino stated that the patient suffered a traumatic injury to her neck and back as a result of the motor vehicle accident. Dr. Ciancimino further stated that the American College of Radiology (ACR) guidelines clearly mention "acute trauma" to be one of the indicators for MRI testing. According to Dr. Ciancimino, the patient's history of significant trauma was indicative of the need for MRI testing.

Applicant's rebuttal sufficiently rebutted the peer reviews by establishing a standard of care not contemplated by the peer review doctor.

Therefore, I find that respondent has not sustained its denials of claim on the issue of medical necessity.

After carefully weighing the evidence, I find for applicant in the amount of \$1,837.68.

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	Total	Status
	Columbus Imaging Center	08/27/16 - 08/27/16	\$936.23	\$ 1,837.68	Awarded: \$936.23
	Columbus Imaging Center	08/27/16 - 08/27/16	\$901.45	\$ 1,837.68	Awarded: \$901.45
Total			\$1,837.68	Awarded: \$1,837.68	

- B. The insurer shall also compute and pay the applicant interest set forth below. 02/22/2018 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Respondent shall pay the applicant interest computed from 2/22/18, the date that the within claim was filed, at a rate of 2% per month, simple interest, and ending with the date of the payment of the award, subject to the provisions of 11 NYCRR 65-3.9.

C. Attorney's Fees

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

As noted above, this matter was filed with the AAA after 2/4/15. Thus, 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 Nassau

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

07/27/2019

(Dated)

Matthew K. Viverito

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:
b1299dd39f10bdd3288df8250dc42ecc

Electronically Signed

Your name: Matthew K. Viverito
Signed on: 07/27/2019