

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Kolb Radiology, P.C.
(Applicant)

- and -

Hereford Insurance Company
(Respondent)

AAA Case No.	17-18-1096-0311
Applicant's File No.	RLG-9983-89923
Insurer's Claim File No.	70815-02
NAIC No.	24309

ARBITRATION AWARD

I, Howard Jacob, 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: Assignor

1. Hearing(s) held on 09/25/2019
Declared closed by the arbitrator on 09/25/2019

Joaquin Lopez from Rizzo Law Group PLLC participated in person for the Applicant

Joshua Younger from Hereford Insurance Company participated in person for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 878.67**, 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

The issue in this arbitration is the Applicant's bill for an MRI, denied based on a peer review.

4. Findings, Conclusions, and Basis Therefor

The Applicant brought this arbitration proceeding to obtain payment of \$878.67 for an MRI of the left shoulder done on November 17, 2017. The submissions of both parties were made of the record.

The Respondent denied this bill based on the peer review of Dr. John Megarr. In the "History" section of his report, Dr. Megarr stated in part as follows:

"The claimant was evidently referred for a left shoulder MRI, which was conducted on 11/17/17 and addressed to Kevin Weiner, M.D. However, there is no report provided by this physician to indicate why an MRI was needed."

In the "Discussion" section of his report, Dr. Megarr again reiterated this point with the following statement:

"Once again, while there was mention made of shoulder pain by the acupuncturist, I can find no documentation of a shoulder examination or any report submitted by Dr. Weiner, the referring physician."

In the Respondent's submission in the ECF section denoted as "Medical/Progress Rpts/Treatment Notes," there is a referral form for this MRI, dated November 13, 2017, on the letterhead of All Boro Medical Rehabilitation, PLLC. Dr. Weiner's name is circled on the form.

I have considered the evidence submitted by the Respondent and it is clear that Dr. Magarr recommended denial of this claim based on the fact that he did not have a report from Dr. Weiner explaining the rationale for this MRI. I note that there is no evidence in the record that the Respondent attempted to obtain documentation from Dr. Weiner by way of the additional verification process. To deny a claim for lack of documentation that could have been obtained by way of the additional verification process is in effect an unfair claims practice.

The denial cannot be sustained.

The Respondent is responsible for payment of \$878.67.

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
	Kolb Radiology, P.C.	11/17/17 - 11/17/17	\$878.67	\$ 878.67	Awarded: \$878.67
Total			\$878.67	Awarded: \$878.67	

B. The insurer shall also compute and pay the applicant interest set forth below. 05/25/2018 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Interest will run from the arbitration filing date of May 25, 2018.

C. Attorney's Fees

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

The Respondent shall pay an attorney's fee in accordance with Section 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, Howard Jacob, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

10/11/2019
(Dated)

Howard Jacob

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:
40fed0e6b98a62c340587d9ef059f2d2

Electronically Signed

Your name: Howard Jacob
Signed on: 10/11/2019