

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Rockaway Park Medical, P.C. , Silver Needle Acupuncture, PC (Applicant)	AAA Case No.	17-19-1121-2683
	Applicant's File No.	341040,341041,344961,344962,340055
- and -	Insurer's Claim File No.	321625B58
State Farm Mutual Automobile Insurance Company (Respondent)	NAIC No.	25143

ARBITRATION AWARD

I, Regina Anzalone Kurz, 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: The injured party.

1. Hearing(s) held on 03/31/2020
Declared closed by the arbitrator on 03/31/2020

Steven Palumbo, Esq. from Leon Kuchеровsky Esq. participated by telephone for the Applicant

Alisa Burns, Esq. from McDonnell Adels & Klestzick, PLLC participated by telephone for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 999.67**, was AMENDED and permitted by the arbitrator at the oral hearing.

Applicants' attorney withdrew the claim brought by Silver Needle Acupuncture, P.C. The demand was then limited to that of Rockaway Park Medical, P.C., in the sum of \$594.76.

Stipulations WERE NOT made by the parties regarding the issues to be determined.

3. Summary of Issues in Dispute

No-Fault health benefits claimed for treatment provided to the injured party on February 13, 2018 and March 12, 2018 following his involvement in an automobile accident on October 3, 2018. Respondent resists the claim on the ground that there is outstanding verification.

4. Findings, Conclusions, and Basis Therefor

Respondent resists the claim on the ground that there is outstanding verification.

Generally, if an insurer requires any additional information to evaluate the proof of claim, such request for verification must be made within 15 business days of the receipt of the bill in order to toll the 30-day period to pay or deny the claim. 11 NYCRR 65-3.5(b).

Where there is a timely original request for verification, but no response to the request for verification is received within 30 calendar days thereafter, or the response to the original request for verification is incomplete, then the insurer, within 10 calendar days after the expiration of that 30-day period, must follow up with a second request for verification. *Id.*

If there is no response to the second, or follow-up, request for verification, the time in which the insurer must decide whether to pay or deny the claim is indefinitely tolled. *Id.*

Therefore, when a no-fault medical service provider fails to respond to the requests for verification the claim is premature and should be denied without prejudice. Pursuant to 11 NYCRR 65-3.5(o), "An applicant from whom verification is requested shall, within 120 calendar days from the date of the initial request for verification, submit all such verification under the applicant's control or possession or written proof providing reasonable justification for the failure to comply. The insurer shall advise the applicant in the verification request that the insurer may deny the claim if the applicant does not provide within 120 calendar days from the date of the initial request either all such verification under the applicant's control or possession or written proof providing reasonable justification for the failure to comply.

My review of the records establishes that there is outstanding verification which was duly requested but not provided as of this writing. As such, I find that the claim is not ripe for adjudication.

Pursuant to the Regulations, the Arbitrator shall be the judge of the relevance and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary. The Arbitrator may question any party or witness or raise any issue that she deems relevant to rendering an Award that is consistent with the Insurance Law and the Regulations. 11 NYCRR Section 65-4.5 (o) (1).

Therefore, based upon the foregoing, the claim is dismissed without prejudice to renew.

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 claim is DISMISSED without prejudice

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

State of New York
SS :
County of Suffolk

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

04/07/2020
(Dated)

Regina Anzalone Kurz

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:
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Electronically Signed

Your name: Regina Anzalone Kurz
Signed on: 04/07/2020