

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Aris Diagnostic Medical PLLC
(Applicant)

- and -

Allstate Fire & Casualty Insurance Company
(Respondent)

AAA Case No. 17-19-1128-1385

Applicant's File No. 2118989

Insurer's Claim File No. 0491213070

NAIC No. 29688

ARBITRATION AWARD

I, Amanda R. Kronin, 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: BR

1. Hearing(s) held on 01/06/2021
Declared closed by the arbitrator on 01/06/2021

Gary Pustel, Esq from Israel, Israel & Purdy, LLP (Great Neck) participated by telephone for the Applicant

Olga Groymko, Esq from Law Offices Of Karen L. Lawrence participated by telephone for the Respondent

2. The amount claimed in the Arbitration Request, **\$ 1,791.73**, was AMENDED and permitted by the arbitrator at the oral hearing.

At the hearing in this matter, Applicant amended the amount in dispute to \$1571.80 in accordance with the fee schedule for two MRIs performed on the same date.

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

3. Summary of Issues in Dispute

The Assignor , BR, a 37 year old female, was injured as the driver of a motor vehicle involved in an accident on 01/14/18. In dispute is the Applicant's claim for MRI testing provided to the Assignor on 02/17/18.

Respondent contends that Applicant's claim was properly denied on the basis of outstanding verification. The issue to be decided is whether Respondent's outstanding verification defense can be sustained.

4. Findings, Conclusions, and Basis Therefor

The case was decided on the submissions of the Parties as contained in the electronic file maintained by the American Arbitration Association and the oral arguments of the parties' representatives. There were no witnesses. I reviewed the documents contained in the electronic file for both parties and make my decision in reliance thereon.

A review of the competent evidence in the record reveals that Applicant established a prima facie case of entitlement to reimbursement of its claim, by submitting evidence that the prescribed statutory billing form was mailed and received, and that the Respondent failed to either pay or deny the claim within the requisite 30-day period. Mary Immaculate Hospital v. Allstate Insurance Co., 5 A.D.3d 742, 774 N.Y.S.2d 564 (2nd Dept. 2004).

The evidence demonstrates that the bill at issue was received by the Respondent on 3/22/18. Respondent issued the first verification request on 04/04/18. Therein, Respondent requested: "Film(s), images or any other medium used to record the procedure and results of the billed for test or service; § 2. Time and date of all tests, including start and end time of the test if not on MRI CD; § 3. License of person supervising service and was such person and supervision 'Direct and On Site' during performance of the billed for service; § 4. W-2 and/or 1099 along with other verifiable proof (including IRS Report 941 and NYS 45) concerning the employment status of the individuals performing the billed for services; § 5. Any prescriptions, medical reports, narratives, letters of medical necessity relating to any referrals made by any health care provider to the Aris Diagnostic Medical, PLLC that resulted in the performance of the billed for services; § 6. Interpretive medical records reflecting findings, reports and diagnoses relating to the billed for services; § 7. Any and all patient intake forms completed by the patient; § 8. Name of technician who performed billed for test as well as any certifications and/or licensing related to his or her credentials and authorization to perform such tests; Brooklyn Metro MCO PO BOX 2874 CLINTON IA 52733 0491213070 2GM § 9. Names and

addresses of all individuals and entities with whom the applicant has entered into agreements for the purchase, lease, sub-lease, licensing or rental of office or clinical space; § 10. Copies of all agreements that the applicant has entered into with any individuals and entities for the purchase, lease, sub-lease, licensing or rental of office or clinical space; § 11. Names and addresses of all individuals and entities with whom the applicant has entered into agreements for the provision of advertising, marketing, or public relations services; § 12. Copies of all agreements that the applicant has entered into with any individuals and entities for the provision of advertising, marketing, or public relations services; § 13. Copies of all invoices, receipts, and proofs of payment related to any advertising, marketing, or public relations services provided to the applicant by any individuals and entities; § 14. Names and addresses of all individuals and entities with whom the applicant has entered into agreements for the provision of management or consulting services; § 15. Copies of all agreements that the applicant has entered into with any individuals and entities for the provision of management or consulting services; § 16. Copies of all invoices, receipts, and proofs of payment related to any management or consulting services provided to the applicant by any individuals and entities; § 17. Names and addresses of all individuals and entities with whom the applicant has entered into agreements for the provision of accounting and/or billing/collection services; § 18. Copies of all agreements that the applicant has entered into with any individuals and entities for the provision of accounting and/or billing/collection services; § 19. Copies of all invoices, receipts, and proofs of payment related to any accounting and/or billing/collection services provided to the applicant by any individuals and entities; § 20. All paperwork regarding the formation, purchase and/or transfer of any business interests with respect to the applicant, including but not limited to ownership agreements, corporate resolutions, correspondence, certificates of incorporation, annual reports and receipts for filing; and § 21. Examination under oath of the eligible injured party (to be conducted by Smith & Brink, P.C.)." The letters also cited to Regulation 65-3.5 (o) which took effect as of April 1, 2013 and states as follows. 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. a second request was sent to the applicant on 5/07/18.

Applicant provided proof of mailing and a response dated 07/05/18 stating that it did not have access to the report by the treating physician. The record is devoid of any correspondence by respondent addressing the sufficiency of Applicant's response.

Instead, a denial of the claim was issued on: 8/20/18. Further, the electronic case file indicates that the Applicant sent an additional response on 9/10/18 which, it maintains was prior to its receipt of the Respondent's denial in this matter.

Respondent has a duty to communicate with the Applicant and vice versa. The parties' obligations are centered on good faith and common sense. Any questions concerning a communication should be addressed by further communication, not inaction. Dilon Medical Supply Corp. v. Travelers Ins. Co., 7 Misc 3d 927, 796 N.Y.S.2d 872 (Civ. Ct. Kings Co. 2005).

The record contains a voluminous amount of documentation provided by the Applicant to the Respondent. I find the Applicant's response was sufficient. Further, Respondent failed to specifically state which information was not provided by the Applicant.

Accordingly, after a careful review of the records and consideration of the parties' oral arguments, I find that Applicant responded appropriately. I find for the Applicant. Reimbursement as requested is due and owing herein. This decision is in full disposition of all claims for No-Fault benefits presently before this Arbitrator.

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	Amount Amended	Status
	Aris Diagnostic Medical PLLC	02/17/18 - 02/17/18	\$879.73	\$659.80	Awarded: \$659.80
	Aris Diagnostic Medical PLLC	02/17/18 - 02/17/18	\$912.00	\$912.00	Awarded: \$912.00
Total			\$1,791.73		Awarded: \$1,571.80

- B. The insurer shall also compute and pay the applicant interest set forth below. 05/07/2019 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Applicant is awarded interest pursuant to the no-fault regulations. See generally, 11 NYCRR §65-3.9. A claim becomes overdue when it is not paid within 30 days after a proper demand is made for its payment.

C. Attorney's Fees

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

Applicant is awarded statutory attorney fees pursuant to the no-fault regulations. See, 11 NYCRR §65-4.5(s)(2). The award of attorney fees shall be paid by the insurer. 11 NYCRR §65-4.5(e).

- 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 Suffolk

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

01/10/2021
(Dated)

Amanda R. Kronin

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:
dd1ab2e03a6da61e73d0a55d48ac95e6

Electronically Signed

Your name: Amanda R. Kronin
Signed on: 01/10/2021