

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

ISA Prompt Diagnostics Inc  
(Applicant)

- and -

St. Paul Travelers Insurance Co.  
(Respondent)

AAA Case No. 17-22-1277-8698

Applicant's File No. DK22-234459

Insurer's Claim File No. IIK8789

NAIC No. 19070

**ARBITRATION AWARD**

I, Alina Shafranov, 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 11/29/2023  
Declared closed by the arbitrator on 11/29/2023

Henry Guindi, Esq. from Korsunskiy Legal Group P.C. participated virtually for the  
**Applicant**

Alla Peker, Esq. from Law Offices of Tina Newsome-Lee participated virtually for the  
**Respondent**

2. The amount claimed in the Arbitration Request, **\$385.11**, was AMENDED and permitted by the arbitrator at the oral hearing.

At the hearing, Applicant's counsel reduced the total amount claimed to \$145.99 in accord with the New York Workers' Compensation Medical Fee Schedule ("fee schedule"). The Demand for Arbitration is hereby amended accordingly.

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

3. Summary of Issues in Dispute

The Assignor, "LNJ", a 34-year-old female was involved in a motor vehicle accident as a passenger on December 21, 2021. The Assignor sought medical treatment for her

injuries sustained in the MVA, and eventually came under the care of Isa Prompt Diagnostics Inc. Applicant seeks reimbursement for an ultrasound of the cervical spine, bilateral shoulders, bilateral knees, and right elbow for date of service 1/13/22. Respondent issued a timely denial and partially reimbursed the Applicant asserting a defense predicated upon the New York Workers Compensation Medical Fee Schedule (fee schedule).

#### 4. Findings, Conclusions, and Basis Therefor

This case was decided on the submissions of the Parties as contained in ADR Center maintained by the American Arbitration Association and the oral arguments of the parties' representatives. This hearing was conducted remotely on the Zoom platform. There were no witnesses present at the hearing. I reviewed the documents contained in the ADR Center for both parties and make my decision in reliance thereon.

I find that Applicant has established a prima facie case of entitlement to reimbursement of this claim. See, Mary Immaculate Hospital v. Allstate Insurance Company, 5 A.D.3d 742, 774 N.Y.S.2d 564 (2nd Dept. 2004). Respondent's denials are found to be timely.

Respondent has the burden of coming forward with competent evidentiary proof to support its fee schedule defenses. See, Robert Physical Therapy PC v. State Farm Mutual Auto Ins. Co., 2006 NY Slip 26240, 13 Misc.3d 172, 822 N.Y.S.2d 378, 2006 N.Y. Misc. LEXIS 1519 (Civil Ct, Kings Co. 2006). See also, Power Acupuncture PC v. State Farm Mutual Automobile Ins. Co., 11 Misc.3d 1065A, 816 N.Y.S.2d 700, 2006 NY Slip Op 50393U, 2006 N.Y. Misc. LEXIS 514 (Civil Ct, Kings Co. 2006). If Respondent fails to demonstrate by competent evidentiary proof that a plaintiff's claims were in excess of the appropriate fee schedules, defendant's defense of noncompliance with the appropriate fee schedules cannot be sustained. See, Continental Medical PC v. Travelers Indemnity Co., 11 Misc.3d 145A, 819 N.Y.S.2d 847, 2006 NY Slip Op 50841U, 2006 N.Y. Misc. LEXIS 1109 (App. Term, 1st Dep't, per curiam, 2006).

Notice is taken that Applicant has billed \$1151.19 for an ultrasound of the cervical spine, bilateral shoulders, bilateral knees, and right elbow under CPT Codes 76800 and 76881. Respondent issued a timely denial and partially reimbursed the Applicant \$766.08 leaving a balance of \$385.11. At the hearing Applicant's counsel amended the claim to \$145.99. Respondent's denial asserts the following fee schedule defense: "FOR THREE OR MORE PARTS, WHETHER CONTIGUOUS OR REMOTE, THE CHARGE SHALL BE THE GREATER FEE PLUS 75% OF THE LESSER FEES. (NEW YORK WORKERS' COMPENSATION MEDICAL FEE SCHEDULE/CHIROPRACTIC FEE SCHEDULE RADIOLOGY MULTIPLE DIAGNOSTIC PROCEDURES GROUND RULE(S)). 4093 THESE SERVICES HAVE ALREADY BEEN CONSIDERED FOR REIMBURSEMENT." In support of its

defense, Respondent has submitted a fee schedule Affidavit by Erin Hale, CPC. In her Affidavit Ms. Hale concedes that the Applicant is owed an additional \$145.99. She stated as follows:

"Bill: 11135323, DOS 1/13/22: Bill under paid by \$145.99 76800 - TC - 5.56 RVUs x \$58.19 Radiology Conversion Factor for Region IV = 323.54 x 55% (TC) = \$177.95 x 75% = \$133.46 76881 - TC - 4.46 RVUs x \$58.19 Radiology Conversion Factor for Region IV = \$259.53 x 75% (TC) = \$194.65 76881 - TC - 4.46 RVUs- 4.46 RVUs x \$58.19 Radiology Conversion Factor for Region IV = \$259.53 x 75% (TC) = \$194.65 x 75% = \$145.99 76881 - TC - 4.46 RVUs- 4.46 RVUs x \$58.19 Radiology Conversion Factor for Region IV = \$259.53 x 75% (TC) = \$194.65 x 75% = \$145.99 76881 - TC - 4.46 RVUs- 4.46 RVUs x \$58.19 Radiology Conversion Factor for Region IV = \$259.53 x 75% (TC) = \$194.65 x 75% = \$145.99 • For three or more parts, whether contiguous or remote, the charge shall be the greater fee plus 75% of the lesser fees. (New York Workers' Compensation Medical Fee Schedule/Chiropractic Fee Schedule radiology multiple diagnostic procedures ground rule(s)). Total Allowed Amount: \$912.07 - \$766.08 = \$145.99 owed."

I am convinced by the fee schedule analysis of Ms. Hale that the Applicant is entitled to additional reimbursement in the amount of \$145.99. Furthermore, Applicant's counsel amended the claim to reflect this amount, thus, the calculation is undisputed. Accordingly, Applicant is awarded an additional \$145.99.

After reviewing all of the documents on file in the ADR Center maintained by the American Arbitration Association, and considering the arguments set forth by both sides, I find in favor of the Applicant.

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
	ISA Prompt Diagnostics Inc	01/13/22 - 01/13/22	\$385.11	\$145.99	Awarded: \$145.99
Total			\$385.11		Awarded: \$145.99

- B. The insurer shall also compute and pay the applicant interest set forth below. 12/08/2022 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Based on the submission of a timely denial, interest shall be paid from the above date, until the date that payment is made at a rate of 2% per month.

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 newly promulgated 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 NY  
SS :  
County of New York

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

11/30/2023  
(Dated)

Alina Shafranov

### **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:**  
4c7e80f34877c6f05ab23872dd61e68b

### Electronically Signed

Your name: Alina Shafranov  
Signed on: 11/30/2023