

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Huntington Hospital (NSUH)  
(Applicant)

- and -

New York Central Mutual Fire Insurance  
Company  
(Respondent)

AAA Case No. 17-22-1250-8825  
Applicant's File No. RFA22-307390  
Insurer's Claim File No. 20193007103190004734  
NAIC No. 14834

**ARBITRATION AWARD**

I, Eylan Schulman, 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 12/15/2023  
Declared closed by the arbitrator on 12/15/2023

Ryan Woodworth, Esq., from The Russell Friedman Law Group LLP participated virtually for the Applicant

Cristina Carollo, Esq., from Gullo & Associates, LLP participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$249.23**, 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 the claim is ripe for determination due to outstanding verification requests.

This is a claim for reimbursement for an emergency room evaluation and x-rays provided on August 16, 2019, following an automobile accident which occurred the same day.

Respondent argues the claim is not ripe for payment or denial due to outstanding verification requests. Therefore, Respondent has not paid or denied the claim.

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

The findings herein are based on documentary evidence set forth in the ADR Center submitted by the parties prior to the date of hearing and oral argument at the hearing.

An Applicant establishes a *prima facie* showing of entitlement to No-Fault benefits under Article 51 of the Insurance Law by submitting proof that it submitted a claim setting forth the fact and the amount of the loss sustained and payment of No-Fault benefits was overdue. A.B. Med. Servs., PLLC v. Liberty Mutual Ins. Co., 39 A.D.3d 779 (2d Dep't 2007); Nyack Hosp. v. Metro. Prop. & Cas. Ins. Co., 16 A.D.3d 564 (2d Dep't 2005); Mary Immaculate Hospital v. Allstate Insurance Co., 5 AD3d 742 (2d Dep't 2004).

It is undisputed that Applicant established its *prima facie* case of entitlement to first-party no-fault benefits by demonstrating it submitted a timely claim setting forth the fact and amount of loss sustained and payment for the claim has not been made.

Respondent requested verification of the claim pursuant to 11 NYCRR Section 65-3.5 and 11 NYCRR Section 65-3.8(j) (formerly 11 NYCRR Section 65-15(f)(10), delaying the claim pending receipt of the requested material. Specifically, Respondent sought a no-fault application, executed no-fault assignment of benefits, and noted that the bill was submitted more than 45 days, seeking an explanation for the late claim submission. The first verification letter was sent on December 13, 2019, and a follow-up was sent on January 15, 2020.

According to 11 NYCRR Section 65-3, an insurer is entitled to receive all items necessary to verify a claim directly from the parties from whom such information was requested. As per 11 NYCRR Section 65-3.5(b), an insurer shall be entitled to receive proper proof of claim, and as per 11 NYCRR Section 65-3.8(b)(3), an insurer shall not issue a denial of claim before it receives all of the information requested.

Respondent is requesting the claim be dismissed without prejudice based on Applicant's failure to provide the verification materials, which were reasonably requested in a timely fashion, prior to instituting the instant Arbitration. Courts have made clear that Applicants for no-fault benefits must comply with reasonable and timely requests for verification. In Westchester County Medical Center v. New York Central Mutual, 692 N.Y.S.2d 665, 667 (A.D. 2d Dep't 1999), the court held in part that, "any confusion on the part of the plaintiff as to what was being sought should have been addressed by further communication, not inaction." The court went on to hold that the claim at bar did not have to be paid or denied until all demanded verification was provided. *Id.* Likewise, other courts have held that an insurer is not obligated to pay or deny a claim until it has received verification of all relevant information requested. Nyack Hospital v. State Farm, 19 A.D.3d 569, 796 N.Y.S.2d 538 (2d Dep't 2005); St. Vincent's Hospital v. American Transit Ins. Co., 299 A.D.2d 338, 750 N.Y.S.2d 98 (Appellate Division, 2d Dep't 2002); Doshi Diagnostic Imaging Service v. State Farm Insurance Co., 16 Misc3d 42, 842 N.Y.S.2d 153 (App Term, 2d Dep't., 9th and 10th Jud. Dists. 2007); Elite Chiropractic

Services v. Travelers Insurance Co., 9 Misc. 3d 137 (App Term, First Dept. 2005);  
Psych & Massage Therapy Assoc., PLLC v. Progressive Cas. Ins. Co., 5 Misc.3d 723,  
789 N.Y.S.2d 661 (Queens Co. Civ. Ct. 2004).

At the hearing, Applicant's counsel primarily argued that Respondent may not delay a bill for hospital treatment for an NF-2. Notwithstanding, Applicant did not address Respondent's requests for an explanation of the late bill submission or for an assignment of benefits. Based on the fact that Applicant instituted the instant arbitration before receiving a response to its verification requests, I find that Applicant prematurely commenced this arbitration - before providing a response to Respondent's inquiries - preventing Respondent from fully evaluating the claim.

Accordingly, the time to pay or deny the claim has not commenced and the matter is not ripe for arbitration. Applicant is free to re-file the claim if a response is supplied to Respondent and Respondent fails to pay or deny the claim in a just, proper and timely manner, or if Respondent denies the claim and Applicant deems it appropriate to arbitrate the denial.

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 NY  
SS :  
County of Nassau

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

12/17/2023  
(Dated)

Eylan Schulman

### **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:**  
c4fdac3c68322dd34298499be0db7be7

### Electronically Signed

Your name: Eylan Schulman  
Signed on: 12/17/2023