

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Lefferts Drugs Inc
(Applicant)

- and -

American Transit Insurance Company
(Respondent)

AAA Case No. 17-22-1273-0366

Applicant's File No. LIP-23066

Insurer's Claim File No. 1115611-02

NAIC No. 16616

ARBITRATION AWARD

I, Victoria Thomas, 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 12/13/2023
Declared closed by the arbitrator on 12/13/2023

Rajesh Barua from Law Offices of Ilya E Parnas P.C. participated virtually for the Applicant

Adam Waknine from American Transit Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$2,116.10**, 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

Did Applicant submit a timely proof of claim or provide a reasonable justification for the untimely notice?

The Assignor 'DR' was involved in a motor vehicle accident on 5/22/22. Applicant billed for pharmaceuticals with DOS 8/16/22. Respondent denied the claims because the Applicant failed to submit its Notice of Claim within thirty (30) days.

4. Findings, Conclusions, and Basis Therefor

I have reviewed the file with regard to this matter maintained by the AAA in the center. This decision is based on my review of that file, as well as the arguments of the parties at the hearing.

Notice of Claim

A Notice of Claim must be mailed or submitted to the insurance carrier within thirty [30] days from the MVA in order to comply with the notice requirement. See 11 NYCRR 65-1.1 & 3.3; NYS Form NF-1A, Page 2; NYS Insurance Department Opinion Letter No. 08-06-01, June 2, 2008.

11 NYCRR 65-1.1. indicates that:

The 30-day written notice requirement must be excused if the claimant submits written proof of clear and reasonable justification for the failure to comply.

11 NYCRR 65-3.5(l) indicates that:

"Insurance carriers shall establish standards for review of its determinations that applicants have provided late notice of claim or late proof of claim... In the case of proof of claim, such standards should include but not limited to appropriate consideration for emergency care providers, demonstrated difficulty in ascertaining the identity of the insurer and inadvertent submission to the incorrect insurer. The insurer shall establish procedures based upon objective criteria to ensure due consideration of denial of claims based upon late notice or late submission of proof of claim, including supervisory review of all such determinations. ..."

There are built-in timelines to the no-fault claims process in which the claimants, providers, and insurance carriers must each act in good faith to address each claim in an expeditious manner. *Five Boro Psychological and Licensed Master Social Work Svcs, PLLC v. GEICO Gen. Ins. Co.*, 38 Misc3d 354, 357 (Civ Ct, Kings Cty 2012).

Respondent argues that the NF-2 is untimely. It submitted a copy of the NF-2 with a date stamp indicating the claim was received on 8/16/22 which is close to three months post-accident. Applicant did not submit proof that it timely submitted the NF-2. As such, I find that the NF-2 was submitted untimely, and there is no reasonable explanation for the delay.

Therefore, Applicant's claims are denied.

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 DENIED in its entirety

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

State of NY

SS :

County of Nassau

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

12/31/2023
(Dated)

Victoria Thomas

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: Victoria Thomas
Signed on: 12/31/2023