

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Medelstar Medical Services  
(Applicant)

- and -

Geico Insurance Company  
(Respondent)

AAA Case No.	17-24-1339-7285
Applicant's File No.	DK24-454293
Insurer's Claim File No.	0679749150000002
NAIC No.	22055

**ARBITRATION AWARD**

I, Deepak Sohi, 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 07/29/2024  
Declared closed by the arbitrator on 07/29/2024

Jennifer Raheb from Korsunskiy Legal Group P.C. participated virtually for the Applicant

Cindy Covelli from Geico Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$254.82**, 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

This arbitration arises out of office visits provided to the EIP, a 26-year-old male, who was involved in a motor vehicle accident as a driver on 6/18/2023. Applicant is seeking reimbursement for the office visits provided to the EIP on dates of service 9/21/2023 and 10/23/2023. Respondent argues it has tolled its time to pay or deny the Applicant's bills for the office visits based on its outstanding requests for additional verification.

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

This case was decided on the submissions of the parties as contained in the Electronic Case Folder (ECF) maintained by the American Arbitration Association and the oral arguments of the parties' representatives at the hearing. No witnesses testified at the hearing. I reviewed the documents contained in the ECF for both parties and make my decision in reliance thereon.

### **OUTSTANDING VERIFICATION**

### **OFFICE VISITS**

### **DATES OF SERVICE 9/21/2023 & 10/23/2023**

Pursuant to Insurance Law § 5106(a) and the Insurance regulations, an insurer must either pay or deny a claim for motor vehicle no-fault benefits, in whole or in part, within 30 days after an applicant's proof of claim is received (see Insurance Law § 5106[a]; 11 NYCRR 65-3.8[c]; see also 11 NYCRR 65-3.5). Infinity Health Products, Ltd. v. Eveready Ins. Co., 67 A.D.3d 862, 864, 890 N.Y.S.2d 545, 547 (2d Dept. 2009). 11 NYCRR Section 65-3.8(a)(1) provides that no fault benefits are overdue if not paid within thirty (30) calendar days after the insurer received proof of claim, which shall include verification of all the relevant requested items pursuant to 11 NYCRR Section 65-3.5.

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. See generally, 11 NYCRR 65-3.5(b); See also, New York Hosp. Med. Ctr. of Queens v. Allstate Ins. Co., 2014 NY Slip Op 00640 (2d Dept. 2014).

In addition, 11 NYCRR 65-3.6 (b) of the no-fault regulations states that at a minimum, if any requested verification has not been supplied to the insurer 30 calendar days after the original request, the insurer shall, within 10 calendar days, follow up with the party from whom the verification was requested, either by telephone call, properly documented in the file, or by mail. At the same time the insurer shall inform the Applicant and such

person's attorney of the reason(s) why the claim is delayed by identifying in writing the missing verification and the party from whom it was requested.

If the insurer does not receive all of the requested verification, it is prohibited from issuing a denial within the first 120 calendar days following the initial request for additional verification. 11 NYCRR 65-3.8(b)(3). If the requested verification is not received in 120 days, Respondent may, but is not required to, deny the claim.

11 NYCRR Section 65-3.5(c) provides that, "The insurer is entitled to receive all items necessary to verify the claim directly from the parties from whom such verification was requested." It is further noted that the Courts have held that the insurer's time to pay or deny a claim does not commence where the applicant has not responded to the respondent's verification requests See Westchester County Medical Center v New York Central Mutual Ins. Co., 692 NYS2d 665 (2d Dept, 1999).

According to the evidence submitted to the ECF, Applicant submitted bills to the Respondent in the amount of \$254.82 for office visits provided to the EIP on dates of service 9/21/2023 and 10/23/2023. Respondent received the Applicant's bills on 10/18/2023 and 11/6/2023, respectively. Subsequently, by letters dated 11/8/2023 and 11/23/2023, Respondent requested the EUO of the Applicant. Respondent scheduled the EUO of the Applicant to be held on 12/7/2023. The EUO of Dr. Adam Abdalla, MD, the owner of the Applicant was held on 12/7/2023. On 12/15/2023 the Respondent made its initial post-EUO requests for additional verification. Thereafter, the Respondent issued its follow-up post-EUO requests for additional verification on 1/19/2024 and 1/25/2024.

Respondent specifically requested 1. Incorporation documents for Medelstar Medical Services and/or Application documents; 2. NYS Registration documents and any NYS certification documents for Medelstar Medical Services; 3. Copy of Dr. Abdallah Adam MD's Medical License; 4. Copies of the Written Lease Agreements for the following locations: a. 3250 Westchester Avenue, Bronx b. 540 Forum Road - 2nd Floor, Bronx c. 3041 Avenue U - Lower Level, Brooklyn d. 100 Pennsylvania Ave (Atlantic & Pennsylvania Ave) - 3rd Floor, Brooklyn e. 160-59 Rockaway Blvd f. Holland Ave Location 5. Copies of the last six (6) months proof of

payment of rent at the following locations: a. 3250 Westchester Avenue, Bronx b. 540 Forum Road - 2nd Floor, Bronx c. 3041 Avenue U - Lower Level, Brooklyn d. 100 Pennsylvania Ave (Atlantic & Pennsylvania Ave) - 3rd Floor, Brooklyn e. 160-59 Rockaway Blvd f. Holland Ave Location 6. Complete list of medical professional employees treating patients at all locations; 7. Copies of Medelstar's medical professional employees licenses/certifications including but not limited to the following: a. Copy of NP License for Bu Kysungsook b. Copy of NP License for NP Jung Kyungsoon c. Copy of NP License for NP Mija d. Copy of PA License for Joseph e. Copy of NP License for NP Hersha Frederic f. Copy of NP License for Kathleen Philbin g. Copy of PA License for PA Dennis Clarke h. Copy of PA License for PA Robert Cheney 8. Copy of Dr. Abdalla Adam's W-2/K-1 9. Copies of W-2 for all medical professional employees treating patients at all locations including but not limited to the following: a. Copy of W-2 for Bu Kysungsook b. Copy of W-2 for NP Jung Kyungsoon c. Copy of W-2 for NP Mija d. Copy of W-2 for PA Joseph e. Copy of W-2 for NP Hersha Frederic f. Copy of W-2 for NP Kathleen Philbin g. Copy of W-2 for PA Dennis Clarke h. Copy of W-2 for PA Robert Cheney 10. Written Response - Full Names of front desk staff at the following locations: a. 3250 Westchester Avenue, Bronx b. 540 Forum Road - 2nd Floor, Bronx c. 3041 Avenue U - Lower Level, Brooklyn d. 100 Pennsylvania Ave (Atlantic & Pennsylvania Ave) - 3rd Floor, Brooklyn e. 160-59 Rockaway Blvd f. Holland Ave Location 11. Make, model and serial numbers for all ultrasound machines; 12. The Last name of PA Joseph 13. Copies of invoices, receipts and proof of payment for ultrasound machines; 14. Email address used to submit billing prep documents to Green Bills; 15. Copy of Written Billing Agreement with Green Bills; 16. Copies of last six (6) months of billing invoices and corresponding proof of payment for billing services; 17. Copy of the complete Patient File for IP Jimmy Alicea Melendez; and 18. Last six (6) months corporate bank records.

To date all of the requested verification remains outstanding. The Applicant has not submitted any responses to any of the Respondent's outstanding verification requests to the ECF. Therefore, I am compelled to dismiss this claim without prejudice as there is insufficient proof that the Applicant responded to the Respondent's verification requests. While not made in this case, an argument could be made that Respondent's right to post-EUO

verification does not exist, however Courts and Arbitrators have routinely upheld an insurer's request for additional verification where the provider has previously appeared for an EUO.

An insurer is not obligated to pay or deny a claim until it has received verification of all relevant information requested. 11 NYCRR 65.15(g)(1)(l). Hospital for Joint Diseases v. New York Central Mutual Fire Insurance Co., 2007 NY Slip Op 08038 (App. Div. 2nd Dept.). A claimant cannot simply ignore a verification request and to do so will result in the dismissal of claimant's claim as not ripe for arbitration. D & R Medical Supply Inc. v. Clarendon Nat. Ins. Co., 22 Misc. 3d 1127(A), 881 N.Y.S.2d 362 (Table)(Civ. Ct. Kings Co. 2009).

The regulations envision "communication, not inaction" from both parties in regards to requests for additional verification. See, e.g., Westchester County Med. Ctr. v. New York Cent. Mut. Fire Ins. Co., 262 A.D.2d 553, 262 A.D.2d 553, 692 N.Y.S.2d 665 (2d Dept. 1999); Mary Immaculate Hosp. v. New York Cent. Mut. Fire Ins. Co., 2008 NY Slip Op 52046(U), 21 Misc.3d 130(A) (App Term 2d Dept., Oct. 9, 2008); Custom Orthotics, Ltd. v. Geico, 25 Misc.3d 545, 883 N.Y.S.2d 884 (NY Civ. Ct. 2009); Media Neurology, PC v. Countrywide Ins. Co., 21 Misc.3d 1101(A), 873 N.Y.S.2d 235 (Table), (NY Civ. Ct. 2008); All Health Medical Care, PC v. Geico, 2 Misc.3d 907, 771 N.Y.S.2d 832 (NY Civ. Ct. 2004).

"Even when a claimant believes it need not comply with a verification request, the claimant still has a duty to communicate with the insurer regarding the request (see, Dilon Medical Supply Corp. v. Travelers Insurance Co., 7 Misc. 3d 927). It is well established that the purpose of the No-Fault statute is to ensure prompt resolution of claims by accident victims. The parties' obligations are centered on good faith and common sense. Any questions concerning a communication should be addressed by further communication, not inaction. (see, Dilon Medical Supply Corp. v. Travelers Insurance Co., supra). If a Plaintiff deems a verification request to be defective and or unreasonable, it is incumbent on that Plaintiff to convey that information to the Defendant and to state the reasons thereof, thereby giving the Defendant the opportunity to respond accordingly. The Defendant should not be put in a position to second guess the reason or reasons why the Plaintiff has failed to respond to the request." Canarsie Chiropractic, P.C. v. State Farm Mutual Automobile Ins. Co., 27 Misc.3d

1228(A), 911 N.Y.S.2d 691 (Table), 2010 N.Y. Slip Op. 50950(U) at 2, 2010 WL 2105860 (Civ. Ct. Kings Co., Sylvia G. Ash, J., May 25, 2010).

It is clear, based on a review of the available evidence, that the item(s) requested remains outstanding. If the Applicant had an objection to any of the requests, whether because they were too vague, or some other objection, it was incumbent upon the Applicant to respond in writing setting forth its objection.

At the hearing Applicant argues, for the first time, that there is no proof of mailing for the verification requests tolling the Respondent's time to pay or deny the Applicant's bill herein. However, the Applicant has neither alleged that it didn't receive the Respondent's verification requests in its initial submission prior to the hearing date nor does it provide any evidence in support of their contention, such as an affidavit. Applicant has not submitted sufficient evidence to rebut the presumption of mailing. Generally, I accept communication between the parties, during the claims process, as a given unless evidence is presented that sufficiently rebuts the presumption of mailing giving enough time for the other party to support its mailing. I find that mere oral argument at the hearing is insufficient to rebut the presumption of mailing. I find an affidavit of mailing or proof of mailing is not necessary.

I do not require the Respondent to submit proof of mailing of its requests for additional verification in its submission unless the Applicant, at minimum, timely raises/alleges this defense within its own submission. Applicant neither alleges that these verification requests were never received, other than for the first time at the hearing, nor has Applicant submitted an affidavit from anyone from the Applicant's office stating that the Respondent's requests for additional verification had not been received. Applicant has failed to submit an affidavit that details the Applicant's office practices and procedures with regard to its receipt of mail and correspondence from insurance carriers it regularly deals with, that supports its contention that the subject requests for additional verification were not received.

Applicant's argument, that since the record is devoid of a response to the Respondent's requests for additional verification, the requests for additional

verification must not have been received by the Applicant, is insufficient to establish non-receipt of the requests for additional verification herein. Furthermore, to raise the argument at the hearing, for the first time, when this arbitration was commenced more than four months prior severely prejudices the Respondent.

In the context of arbitration, 11 NYCRR §65-4.5(o)(1) advises that "[t]he arbitrator shall be the judge of the relevance and materiality of the evidence offered, and strict conformity to the rules of evidence is not necessary."

While the item(s) requested remains outstanding, Respondent is given the right to deny any claim where the verification sought has not been responded to within 120 days, here the Respondent has not done so. As the Applicant does not argue the timeliness of the subject verification requests or the relevancy of the requested documentation, I find that the Respondent has properly tolled its time to pay or deny the Applicant's bills. Therefore, the Applicant's claims for reimbursement for the office visits provided to the EIP on dates of service 9/21/2023 and 10/23/2023 are dismissed without prejudice.

Where the insurer establishes that it timely mailed its verification request and follow-up request to the claimant, and the claimant fails to prove that it provided the requested verification prior to the commencement of the action, the action is premature; it should be dismissed without prejudice to the commencement of a new action inasmuch as the 30-day period within which the insurer was required to pay or deny the claim did not commence to run. Triangle R, Inc. v. GEICO Ins. Co., 27 Misc.3d 137(A), 911 N.Y.S.2d 696 (Table), 2010 N.Y. Slip Op. 50885(U), 2010 WL 2010158 (App. Term 2d, 11th & 13th Dists. May 13, 2010).

Accordingly, in light of the foregoing, based on the arguments of counsel, and after thorough review and consideration of all submissions, I find that the Respondent has properly tolled its time to pay or deny the Applicant's bills. Consequently, the Applicant's claims for the office visits provided on dates of service 9/21/2023 and 10/23/2023 are hereby dismissed without prejudice.

This decision is in full disposition of all claims for No-Fault benefits presently before this Arbitrator. Any further issues raised in the hearing record are held to be moot and/or waived insofar as not raised at the time of the hearing.

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

07/30/2024  
(Dated)

Deepak Sohi

**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:**  
9f2f805ca5d933e06d06ca4229290d31

### Electronically Signed

Your name: Deepak Sohi  
Signed on: 07/30/2024