

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Joseph A Raia MD PC
(Applicant)

- and -

Esurance Insurance Company
(Respondent)

AAA Case No. 17-24-1344-5885

Applicant's File No. NA

Insurer's Claim File No. 230636140-002

NAIC No. 25712

ARBITRATION AWARD

I, Pamela Hirschhorn, 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: Injured Person

1. Hearing(s) held on 09/17/2024
Declared closed by the arbitrator on 09/17/2024

Walter Pisary, Esq. from Law Offices of Hillary Blumenthal LLC (Hoboken) participated virtually for the Applicant

Adva White, Esq. from Law Offices of John Trop participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$336.26**, was NOT AMENDED at the oral hearing.
Stipulations WERE made by the parties regarding the issues to be determined.

See, the within award.

3. Summary of Issues in Dispute

The injured person was a male (DOB 3/18/72) who was involved in the subject motor vehicle accident of July 29, 2023. The claim is for an office visit and outcome assessment performed on February 21, 2024. The parties stipulated that the claim was timely denied based upon the IME report of

David D. Manevitz, DO, referencing an IME performed on December 29, 2023. The issue is whether the IME established prima facie that continued treatment was not medically necessary.

4. Findings, Conclusions, and Basis Therefor

The injured person was a male (DOB 3/18/72) who was involved in the subject motor vehicle accident of July 29, 2023. The claim is for an office visit and outcome assessment performed on February 21, 2024. The parties stipulated that the claim was timely denied based upon the IME report of David D. Manevitz, DO, referencing an IME performed on December 29, 2023. The IME doctor concluded that the injured person's condition had resolved, and that continued treatment was not medically necessary.

The applicant submitted a rebuttal by Leonid Shapiro, MD.

The rebuttal referenced the following MRI studies:

MRI study of the right knee performed on 08/07/2023 revealed anterior cruciate ligament sprain sequelae, linear interstitial tearing of the distal quadriceps tendon superimposed on tendinitis, degenerative changes surrounding knee joint, mucoid degeneration seen in medial meniscus and joint effusion.

MRI study of the left knee performed on 08/07/2023 revealed anterior cruciate ligament sprain sequelae, linear interstitial tearing of the distal quadriceps tendon superimposed on tendinitis, degenerative changes surrounding knee joint, mucoid degeneration seen in medial meniscus and joint effusion.

MRI study of the cervical spine performed on 09/09/2023 revealed straightening of the cervical lordosis, broad-based central disc herniation at C4-5 resulting in compression and impingement of the ventral CSF space with narrowing of left neural foramen, and broad-based central disc herniation at C5-6 resulting in compression and impingement of the ventral CSF space with narrowing of left neural foramen.

MRI study of the lumbar spine performed on 09/09/2023 revealed transitional vertebral anatomy with sacralization of the L5 vertebral body as designated, normal alignment of lumbar spine, and broad-based central disc herniation at L3-L4 level resulting in compression and impingement upon the ventral thecal sac with narrowing of left neural foramen with possible impingement of the exiting nerve roots and broad-based central disc herniation at L4-L5 level resulting in compression and impingement upon the ventral thecal sac with narrowing of left neural foramen with possible impingement of the exiting nerve roots.

MRI study of the thoracic spine performed on 09/18/2023 revealed straightening of the thoracic lordosis, broad-based central disc herniation at T2-T3 level resulting in compression and impingement of the ventral CSF space with narrowing of right neural foramen with possible impingement of the exiting nerve roots and narrowing of left neural foramen, broad-based central disc herniation at T3-T4 level resulting in compression and impingement of the ventral CSF space with narrowing of left neural foramen, and broad-based central disc herniation at T4- 5 level resulting in compression and impingement of the ventral CSF space with narrowing of right neural foramen with possible impingement of the exiting nerve roots and narrowing of left neural foramen.

On 10/11/2023, the patient was examined at applicant's facility. At that time, the patient complained of 7/10 neck pain, 7/10 middle back pain, 7/10 lower back pain, 7/10 bilateral shoulders pain and 7/10 bilateral knees pain. Examination of the cervical spine revealed decreased range of motion at flexion and extension. Examination of the bilateral shoulders revealed tenderness in bilateral trapezius muscles. Based on the complaints and findings upon evaluation, the patient was diagnosed with cervical strain, thoracic strain and lower back syndrome. The patient was also recommended for Trigger Point Injection. The patient was recommended to continue the ongoing course of physical therapy and was also advised to follow-up in 2-4 weeks.

On the same day, the patient had Trigger Point Injection at bilateral trapezius muscle under Ultrasound Guidance.

On 02/21/2024, the patient was examined at the applicant's facility. At that time, the patient complained of 7/10 neck pain, 7/10 middle back pain, 7/10 lower back pain, 7/10 bilateral shoulders pain and 7/10 bilateral knees pain. Examination of the cervical spine revealed decreased range of motion at flexion and extension. Based on the complaints and findings upon evaluation, the patient was diagnosed with cervical strain, thoracic strain and lower back syndrome. The patient was recommended to continue the ongoing course of physical therapy and was also advised to follow-up in 2-4 weeks.

On the same day, the patient had an Outcome Assessment Test.

The applicant's rebuttal referenced that the IME doctor acknowledged that the patient sustained injuries to his neck, upper back, middle back, lower back, bilateral shoulders and bilateral knees in the MVA on 07/29/2023. The IME doctor further acknowledged complaints of 7/10 neck pain, 7/10 upper back pain, 7/10 middle back pain, 7/10 lower back pain, 7/10 bilateral shoulders pain and 7/10 bilateral knees pain at the time of IME. The IME doctor acknowledged that the patient has missed three weeks from work and was currently working with limited duties due to the accident.

This arbitrator has considered the evidence and finds that the applicant demonstrated by a preponderance of the credible evidence that the injured person had continuing and persistent complaints and findings warranting further treatment. The applicant is awarded reimbursement. Attorney's fees shall be calculated pursuant to 11 NYCRR 65-4.6 (d). Interest shall be calculated from the AR1 filing date. See, 11 NYCRR 65-3.9 (c).

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	Status
	Joseph A Raia MD PC	02/21/24 - 02/21/24	\$336.26	Awarded: \$336.26
Total			\$336.26	Awarded: \$336.26

- B. The insurer shall also compute and pay the applicant interest set forth below. 04/18/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

See, the within award.

C. Attorney's Fees

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

See, the within award.

- 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 Nassau

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

09/20/2024
(Dated)

Pamela Hirschhorn

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:
209d14d239751b7aef1cdf7c78544572

Electronically Signed

Your name: Pamela Hirschhorn
Signed on: 09/20/2024