

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Brooklyn Medical Practice, PC
(Applicant)

- and -

Allstate Insurance Company
(Respondent)

AAA Case No. 17-24-1353-0328

Applicant's File No. AR24-24418

Insurer's Claim File No. 0714408804

NAIC No. 19232

ARBITRATION AWARD

I, Ann Lorraine Russo, 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: patient

1. Hearing(s) held on 11/25/2024
Declared closed by the arbitrator on 11/25/2024

Alek Beynenson from The Beynenson Law Firm, PC participated virtually for the Applicant

Marilyn Oppedisano from Law Offices of John Trop participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$261.85**, 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

The issue in dispute in this case is the nonpayment by the respondent for the medical services provided to the patient from 12/4/2023 through 2/22/2024 by applicant for a motor vehicle accident on 5/3/2023. The claims were timely denied based upon the independent medical examination by Dr. Aruna Senevirante on 10/2/2023 effective 10/26/2023.

4. Findings, Conclusions, and Basis Therefor

I have reviewed the documents contained in the electronic case folder as of the date of the hearing and oral arguments of counsel for the respective parties. No witness testimony was presented at the hearing.

The issue in dispute in this case is the nonpayment by the respondent for the medical services provided to the patient from 12/4/2023 through 2/22/2024 by applicant for a motor vehicle accident on 5/3/2023, in which the patient was a bicyclist. The claims were timely denied based upon the independent medical examination by Dr. Aruna Senevirante on 10/2/2023 effective 10/26/2023. The applicant submitted late medical reports in this case. The applicant's failure to timely submit the medical documentation is in violation of this forum's rocket docket procedures and rules. The late submissions violate the rocket docket rules and procedures of the arbitration forum and late documentation is precluded in this case. The submission of late documentation by applicant is prejudicial to the respondent and would reward the applicant's tardy behavior. The amount in dispute is \$261.85 for the services in this case.

A no-fault provider establishes its prima facie entitlement to summary judgment by proof of the submission to the defendant of a claim form, proof of the fact and the amount of the loss sustained, and proof either that the defendant had failed to pay or deny the claim within the requisite 30-day period, or that the defendant had issued a timely denial of claim that was conclusory, vague or without merit as a matter of law. See Insurance Law Section 5106(a); *Ave T MPC Corp. v. Auto One Ins. Co.*, 32 Misc.3d 128(A), 934 N.Y.S.2d 32 (Table), 2011 N.Y. Slip Op. 51292(U), 2011 WL 2712964 (App. Term 2d, 11th & 13th Dists. July 5, 2011); *Westchester Medical Center v. Nationwide Mut. Ins. Co.*, 78 AD3d 1168, 911 N.Y.S.2d 907 (2nd Dept. 2010) and *New York & Presbyt. Hosp. v. Allstate Ins. Co.*, 31 AD3d 512 (2006). Respondent issued a timely denial based upon the independent medical examination. The denials are timely and promptly apprise(s) the claimant with a high degree of specificity of the ground or grounds on which the disclaimers are predicated in this case. As a result, the respondent has timely denied the applicant's claims thereby preserving its defense based upon medical necessity.

The independent medical examination report by Dr. Aruna Seneviratne performed on 10/2/2023 effective 10/26/2023 provided essentially normal examination of the patient. The independent medical examination report of the patient with Dr. Seneviratne provided consistent clinical findings and events in support of the termination of the medical services, including the services in this case. The applicant has not submitted timely sufficient and consistent medical records and reports to establish a continued course of medical treatment for the patient as a result of this accident in this case. The applicant has not timely submitted any persuasive medical reports or records in support of the continuation of medical treatment after the independent medical examination by Dr. Seneviratne. The independent medical examination report by Dr. Seneviratne is persuasive for the medical services in this case. Consequently, the denial for the services provided by the applicant for the patient after the respondent's independent medical examination by Dr. Seneviratne is sustained and applicant's claim is denied.

The applicant's medical records do not provide any additional significant information in support of the continuation of the services in this case. The applicant's medical documentation does not contain any further additional information in support of the performance of the medical services in this case. The applicant's medical documents do not provide sufficient supporting medical information, findings, and events in opposition to the findings provided in the independent medical examination report by Dr. Seneviratne in this case. The applicant's medical documentation does not contain any further additional information in support of the performance of the services in this case. The applicant has not submitted sufficient timely medical documentation in support of the services provided to the patient after the respondent's independent medical examinations by Dr. Seneviratne in this case. The applicant's medical documents do not provide sufficient supporting medical information, findings, and events in opposition to the findings provided in the independent medical examination report in this case. Consequently, the services performed after the respondent's independent medical examination of the patient by Dr. Seneviratne are denied.

The applicant has not submitted timely sufficient medical documentation in support of the medical services provided to the patient after the respondent's independent medical examination in this case. The applicant's medical reports do not sufficiently incorporate the services into the patient's treatment plan. The independent medical examination report is detailed and provides a comprehensive review of the patient's complaints, course of medical treatment and results of the examination. There are no sufficient medical reports and session notes that establish a continued course of medical treatment and the impact on the patient's course of medical treatment, condition, and status. There are lapses of medical examinations and treatment notes to indicate that the patient received any benefits in the medical treatment plan as a result of the medical services performed after the respondent's independent medical examination on 10/2/2023 by Dr. Seneviratne in this case.

The timely submitted medical records contain sufficient lapses in treatment and inconsistent clinical findings and events for the patient in this case. The applicant has not timely submitted any sufficient contemporaneous medical reports on around the date of the independent medical examination performed by Dr. Seneviratne on 10/2/2023, that provide sufficient information, analysis, and rationale for the continuation of medical services after the respondent's independent medical examination in this case. The applicant's position is not persuasive in this case. The respondent's independent medical examination with the patient by Dr. Aruna Seneviratne performed on 10/2/2023 and effective 10/26/2023 is persuasive in this case.

Based upon the evidence presented in this case, it is the opinion of this Arbitrator that the applicant has not established that the services were medically necessary in this case.

Accordingly, the respondent's denials are sustained, and the applicant's claim is 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, Ann Lorraine Russo, do hereby affirm upon my oath as arbitrator that I am the individual described in and who executed this instrument, which is my award.

11/25/2024
(Dated)

Ann Lorraine Russo

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:
919912d96adf80be8d7058972dc00cfe

Electronically Signed

Your name: Ann Lorraine Russo
Signed on: 11/25/2024