

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Atlantic Medical & Diagnostic PC
(Applicant)

- and -

State Farm Mutual Automobile Insurance
Company
(Respondent)

AAA Case No. 17-24-1352-0662

Applicant's File No. JL24-134962

Insurer's Claim File No. 3263P256R

NAIC No. 25143

ARBITRATION AWARD

I, Teresa Girolamo, Esq., 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: R.M.

1. Hearing(s) held on 01/07/2025
Declared closed by the arbitrator on 01/07/2025

Andrew R. Leahy, Esq from The Licatesi Law Group, LLP participated virtually for the Applicant

Shelly Heffez, Esq. from Abrams, Cohen & Associates, PC participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,944.62**, 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 Applicant is entitled to any recovery as Respondent contends that it paid as per fee schedule?

4. Findings, Conclusions, and Basis Therefor

I have reviewed the documents contained in the Electronic Case Folder as of the date of the hearing. This decision is based on my review of that file, as well as the arguments of the parties at the hearing. Each of the parties appeared via ZOOM.

Once the insurer makes a prima facie showing that the amounts charged by a provider were in excess of the fee schedule, the burden shifts to the provider to show that the charges involved a different interpretation of such schedule or an inadvertent miscalculation or error. *Cornell Medical, P.C. v. Mercury Casualty Co.*, 24 Misc.3d 58, 884 N.Y.S.2d 558 (App. Term 2d, 11th & 13th Dists. 2009).

On 6/14/2024 Applicant filed for Arbitration. According to the AR-1 there is one date of service of 4/5/2024 with no payment made.

Applicant billed for an Office visit under CPT Code 99214-25 PA in the amount of \$127.41; 4 charges for ultrasonic guidance each in the amount of \$289.20; injections under CPT Code 20553 -PA in the amount of \$131.01; dexamethasone Injection under J1100 in the amount of \$239.40; bupivacaine injection under CPT Code J0665 in the amount of \$125.00 and for unclassified drug, under CPT Code J3490 in the amount of \$165.00. Total Billed \$1,944.62

Respondent uploaded an Explanation of Review dated 8/29/2024 which lists the charges billed of \$1,944.62 and the total approved amount of \$457.06 plus interest of \$28.34 as payment was late.

Respondent uploaded a Coder Affidavit of Jeffrey Futoran, CPC, who prepared an Affidavit specifically for this matter. In sum finds that the payment of \$457.06 was an over payment with the proper reimbursement of \$336.90 therefore no additional funds are recoverable.

Applicant offers a generic Coder Affidavit by Michael Miscoe -signed 11/1/2023 I have reviewed this affidavit which discusses the use of the "J" Codes. "whether an injectable anesthetic reportable using a "HCPCS "J" Code Constitutes Materials supplied.

Applicant uploaded a "summary of Michael Miscoe Coding Affidavit" which discusses whether it is appropriate to report CPT 76942 more than once. However, this is not the focus of the Coder Affidavit that was uploaded. Directly thereafter is another Affidavit of Michael Miscoe, which addresses the use of CPT Code 76942 and 99358. This is the Affidavit I advised Applicant that I have reviewed more than several dozen times and each time I found it unpersuasive and that Applicant is overbilling as per fee schedule.

Decision:

Having considered the arguments of the parties and having reviewed the evidence I find that Applicant's claim for additional compensation is denied. However, as payment was made post filing, Counsel is entitled to attorney fees on \$485.40.

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 a non-monetary disposition

- A. The insurer shall also compute and pay the applicant interest set forth below. 01/07/2025 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

The date of 1/7/2025 is used for template purposes only as interest was already paid.

B. Attorney's Fees

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

Applicant is entitled to attorney fees on the amount of \$485.40

- C. 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 CT

SS :

County of Fairfield

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

01/08/2025
(Dated)

Teresa Girolamo, Esq.

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:
e7e9807ed5880419be1f8ae1db5c76c5

Electronically Signed

Your name: Teresa Girolamo, Esq.
Signed on: 01/08/2025