

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Medical Imaging of Bronx, PC
(Applicant)

- and -

Maya Assurance Company
(Respondent)

AAA Case No. 17-24-1365-9882

Applicant's File No. 20390

Insurer's Claim File No. 2-232424-N01

NAIC No. 36030

ARBITRATION AWARD

I, Mary Anne Theiss, 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: Claimant

1. Hearing(s) held on 01/08/2025
Declared closed by the arbitrator on 01/08/2025

Frank S. Patruno, Esq. from Frank S. Patruno Law Offices, P.C participated virtually for the Applicant

Angela Walsh, Esq. from De Martini & Yi, LLP participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$3,816.11**, was AMENDED and permitted by the arbitrator at the oral hearing.
The original amount claimed was \$3,816.11, it was amended by agreement of the parties to \$3,354.52 to reflect a reduction in the second MRI performed on the same date.

Stipulations WERE NOT made by the parties regarding the issues to be determined.

3. Summary of Issues in Dispute
The male Claimant with a date of birth October 15, 1979, was involved in a motor vehicle accident on November 19, 2023, as a restrained driver of a vehicle.

The Applicant Medical Imaging of Bronx, PC is seeking \$3,354.52 for dates of service from December 8, 2023, through December 15, 2023.

The denial of the December 8, 2023, bills is based upon the Claimant's failure to appear at Examinations Under Oath on January 30, 2024, and February 20, 2024.

For bills with the date of service December 15, 2023, there is no denial. There is proof that the December 15, 2023, bills were mailed.

4. Findings, Conclusions, and Basis Therefor

The male Claimant with a date of birth October 15, 1979, was involved in a motor vehicle accident on November 19, 2023, as a restrained driver of a vehicle.

The Applicant Medical Imaging of Bronx, PC is seeking \$3,354.52 for dates of service from December 8, 2023, through December 15, 2023.

The denial of the December 8, 2023, bills is based upon the Claimant's failure to appear at Examinations Under Oath on January 30, 2024, and February 20, 2024.

For bills with the date of service December 15, 2023, there is no denial. There is proof that the December 15, 2023, bills were mailed.

Under New York State No-Fault Law an Applicant can make a prima facie showing of medical necessity by submitting "...a properly completed claim form, which suffices on its face to establish the "particulars of the nature and extent of the injuries and [health benefits] received and contemplated" (11 NYCRR 65-1.1), and the "proof of the fact and the amount of loss sustained." (Insurance Law section 5102 [a]) See *Amaze Medical Supply Inc. a/a/o Johnny Bermudez v. Eagle Insurance Company* 784 N.Y.S.2d 918 and *Mary Immaculate Hospital v. Allstate Insurance Company*, 5 A.D.3d 742, 774 N.Y.S.2d 564 (2nd Dept. 2004).

The Carrier produced an affidavit from Denise Meade, sworn to on October 28, 2024. Ms. Meade indicates that bills for date of service December 15, 2024, were never received and the Applicant's proof of mailing is insufficient. The Applicant indicates that the two bills for December 15, 2023, were mailed to the same address as the bills for December 8, 2023.

In regard to the Applicant not showing for an Examination Under Oath the Carrier produced an affirmation from Brian Visnius, Esq. indicating that the Claimant failed to appear on the two dates in question. The Carrier produced an attorney affirmation from Arthur DeMartini dated October 28, 2024, as to the mailing procedure. The letters were sent to the appropriate address.

The Carrier provided the appropriate proof, and the claim is denied for the date of service December 8, 2023, however, there is no denial for the December 15, 2023, bills. There is proof, however, that those bills were received, and they are awarded.

I want to thank the parties for taking the time to prepare their cases and participating in the arbitration process.

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	Amount Amended	Status
	Medical Imaging of Bronx, PC	12/08/23 - 12/08/23	\$878.67	\$659.00	Denied
	Medical Imaging of Bronx, PC	12/08/23 - 12/08/23	\$966.54	\$966.54	Denied
	Medical Imaging of Bronx, PC	12/15/23 - 12/15/23	\$1,003.20	\$1,003.20	Awarded: \$1,003.20
	Medical Imaging of Bronx, PC	12/15/23 - 12/15/23	\$967.70	\$725.78	Awarded: \$725.78
Total			\$3,816.11		Awarded: \$1,728.98

B. The insurer shall also compute and pay the applicant interest set forth below. 09/19/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

The insurer shall compute and pay the applicant the amount of interest from the filing date of the request for arbitration, at a rate of two percent (2%) per month, simple interest (i.e., not compounded), using a 30-day month and ending with the date of payment of the award, subject to the provisions of 11 NYCRR §65-3.9(c). The filing date, pursuant to the American Arbitration Association records, is as noted above interest is paid from the date of filing.

C. Attorney's Fees

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

The insurer shall pay the applicant an attorney's fee in accordance with 11 NYCRR 65-4.6(d). As this matter was filed after February 4, 2015, this case is subject to the provisions promulgated by the Department of Financial Services in the Sixth Amendment to 11NYCRR 65-4 (Insurance Regulation 68-D). Accordingly, the insurer shall pay the applicant an attorney's fee in accordance with 11 NYCRR 65-4.6(d). Subject to a maximum fee of \$1,360.00.

- 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 NY

I, Mary Anne Theiss, 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)

Mary Anne Theiss

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:
88c4d1fa837733ca10a97f0da5432122

Electronically Signed

Your name: Mary Anne Theiss
Signed on: 01/08/2025