

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Brooklyn Medical Practice, PC
(Applicant)

- and -

American Transit Insurance Company
(Respondent)

AAA Case No. 17-24-1360-1446

Applicant's File No. AR24-25014

Insurer's Claim File No. 1122293

NAIC No. 16616

ARBITRATION AWARD

I, Natia Pavel, 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 (JF)

1. Hearing(s) held on 03/28/2025
Declared closed by the arbitrator on 03/28/2025

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

Jeffrey Siegal Esq., from American Transit Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,493.76**, 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

Applicant is seeking reimbursement in the sum of \$1,493.76 representing the medical services that were rendered to the EIP (JF) on 12/1/22. The EIP (JF) was a 45-year-old male driver who was injured as a result as a result of a motor vehicle accident that occurred on 11/21/22. Following the accident, the EIP complained of pain to his neck, back and shoulders. Therefore, the EIP underwent the services in dispute. The Applicant submitted this claim to the carrier seeking reimbursement. The carrier denied this claim based on the defense that Workers' Compensation is primary. The parties agreed that the sole issue is whether the Respondent has met its burden in demonstrating the Workers' Comp defense.

4. Findings, Conclusions, and Basis Therefor

The case was decided on the submissions of the Parties as contained in ADR Center maintained by the American Arbitration Association and the oral arguments of the parties' representatives. There were no witnesses. I reviewed the documents contained in the ADR Center for both parties and make my decision in reliance thereon.

Pursuant to 11 NYCRR §65-4.5(o)(1), the arbitrator shall be the judge of the relevance and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary. The arbitrator may question any witness or party and independently raise any issue that the arbitrator deems relevant to making an award that is consistent with the Insurance Law and Department regulations.

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After a review of the evidence, I do not find that the Respondent can meet its burden of proof (regarding the Workers' Compensation being primary defense). There is a decision from the Workers' Comp Board determining that this matter is not eligible with Workers' Compensation Board. The claimant was found to be on his way home from work as such Workers Comp was denied. The hearing was held on 6/12/24. Therefore, the Respondent's denial is not sustained and the Applicant's claim is awarded.

I note there was one bill that was denied based on the 45-day rule. Respondent's denial is based upon the allegation that Applicant did not submit the bill for services timely. The No-Fault Regulations Mandatory Personal Injury Protection Endorsement states: Proof of Claim; Medical, Work Loss, and Other Necessary Expenses. In the case of a claim for health service expenses, the eligible injured person or that person's assignee or representative shall submit written proof of claim to the Company, including full particulars of the nature and

extent of the injuries and treatment received and contemplated, as soon as reasonably practicable but, in no event later than 45 days after the date services are rendered.

The record reveals that Applicant submitted its bill for service within the 45 days from the date the services. The Applicant has submitted sufficient proof of mailing indicating the claim was mailed to the carrier within the prescribed 45-day rule. Therefore, I find the Applicant has met its prima facie claim for reimbursement. Accordingly, the Respondent's denial is not sustained and the Applicant's claim is granted.

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
	Brooklyn Medical Practice, PC	12/01/22 - 12/01/22	\$149.78	Awarded: \$149.78
	Brooklyn Medical Practice, PC	12/05/22 - 12/30/22	\$195.66	Awarded: \$195.66
	Brooklyn Medical Practice, PC	01/04/23 - 01/27/23	\$228.21	Awarded: \$228.21
	Brooklyn Medical Practice, PC	02/01/23 - 02/20/23	\$269.12	Awarded: \$269.12
	Brooklyn Medical Practice, PC	04/12/23 - 04/28/23	\$261.85	Awarded: \$261.85
	Brooklyn Medical Practice, PC	05/08/23 - 05/26/23	\$194.57	Awarded: \$194.57
	Brooklyn Medical Practice, PC	06/23/23 - 06/23/23	\$33.64	Awarded: \$33.64
	Brooklyn Medical Practice, PC	08/07/23 - 08/07/23	\$33.64	Awarded: \$33.64
	Brooklyn Medical Practice, PC	10/27/23 - 10/27/23	\$127.29	Awarded: \$127.29
Total			\$1,493.76	Awarded: \$1,493.76

- B. The insurer shall also compute and pay the applicant interest set forth below. 08/08/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Applicant is awarded interest pursuant to the no-fault regulations. See generally, 11 NYCRR §65-3.9. Interest shall be calculated "at a rate of two percent per month, calculated on a pro rata basis using a 30 day month." 11 NYCRR §65-3.9(a). A claim becomes overdue when it is not paid within 30 days after a proper demand is made for its payment. However, the regulations toll the accrual of interest when an applicant "does not request arbitration or institute a lawsuit within 30 days after the receipt of a denial of claim form or payment of benefits calculated pursuant to Insurance Department regulations." See, 11 NYCRR 65-3.9(c). The Superintendent and the New York Court of Appeals has interpreted this provision to apply regardless of whether the particular denial at issue was timely. *LMK Psychological Servs., P.C. v. State Farm Mut. Auto. Ins. Co.* 12.N.Y.3d 217 (2009).

C. Attorney's Fees

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

After calculating the sum total of the first-party benefits awarded in this arbitration plus the interest thereon, Respondent shall pay Applicant an attorney's fee equal to 20% of that sum total, subject to a maximum fee of \$1,360. See, 11 NYCRR 65-4.6 (d).

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

03/28/2025

(Dated)

Natia Pavel

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:
40c2e6d570a42bf79befae694734091b

Electronically Signed

Your name: Natia Pavel
Signed on: 03/28/2025