American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Western NY MRI LLP (Applicant)	AAA Case No.	17-24-1371-3328
	Applicant's File No.	084-24-SAF
- and -	Insurer's Claim File No.	263PPIWD2443J002
	NAIC No.	38130
St. Paul Travelers Insurance Co. (Respondent)		

ARBITRATION AWARD

I, Douglas Coppola, 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: assignor

1. Hearing(s) held on 06/12/2025
   Declared closed by the arbitrator on 06/12/2025

   Pasquale Bochiechio, Esq. from Pasquale V. Bochiechio, PC participated virtually for the Applicant

   Tamara Lefranc, Esq. from Law Offices of Tina Newsome-Lee participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **$1,305.00**, was AMENDED and permitted by the arbitrator at the oral hearing.

   The claim amount is amended to $984.80.

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

3. Summary of Issues in Dispute

   Did the Respondent properly reimburse the Applicant for radiology services rendered on January 5, 2023; January 6, 2023 and February 14, 2023 in accordance with a PPO contract? Applicant contends no valid PPO contract exists with MagnaCare.

This claim arises out of an MVA which occurred on November 5, 2022 in which the 55 year old female assignor (EIP) sustained injuries necessitating radiology services with the Applicant.

4. Findings, Conclusions, and Basis Therefor

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.

This claim arises out of an MVA which occurred on November 5, 2022 in which the 55 year old female assignor (EIP) sustained injuries necessitating radiology services with the Applicant.

This case involves three dates of service on January 5, 2023; January 6, 2023 and February 14, 2023. Timely billings are conceded by the Respondent. The Respondent issued partial payment and claimed that it made all payments that were required under a PPO agreement entered into between MagnaCare and the Applicant. The Applicant contests that it was a party of any such contract and states that the MagnaCare agreement that was executed in 1999 was with an unrelated entity, Western New York MRI Enterprises, Inc. The parties have provided affidavits concerning their contentions. I am setting forth the nature of the contract dispute and render by decision in the Applicants favor at the conclusion of this award.

<u>The Contract</u>

The Respondent had submitted an affidavit from Nydia Flores, who is affiliated with MagnaCare and has been employed there by the Director of Casualty Accounts. She has supplied an affidavit which states that in paragraph 14 that the Applicant submitted an application to MagnaCare seeking to become a member of the PPO on or about January 27, 1999.

The Applicant has submitted an affidavit from Joseph Serghany, MD who is one of the original founders of the Applicant group. He states that this affidavit submitted by Ms. Flores as incorrect in as much as the Applicant did not come into existence until the year 2003. Applicants counsel has stated more forcefully that the affidavit of Nydia Flores is "false."

It is clear from the various affidavits, the contract which MagnaCare entered into in 1999 was with a different entity, Western New York Enterprises, Inc. That entity had its own tax ID number of 16-1352412. It was not until 2003, according to the Serghany affidavit that the Applicant came into existence. New York State filings have been supplied as exhibits attesting to this fact.

It seems that the Western New York Enterprises, Inc. which entered into the MagnaCare contract in 1999 continued in business until it was dissolved in 2024. That entity was a consortium of various local WNY hospitals which divided MRI services and indeed had a contract with MagnaCare.

According to the affidavits submitted in the record in this case, the MagnaCare contract which was signed in 1999 was signed by Dr. Reza Pordell who was never a partner, employee or otherwise affiliated with the Applicant. Dr. Pordell was a member of Western New York MRI Enterprises, Inc.

Dr. Seghany's affidavit indicated that in 2003, Western New York MRI, LLP purchased the real estate at 222 West Genesee Street in Buffalo, New York as well as some equipment. He also assumed the right to use the name, Western New York MRI from Western New York MRI Enterprises. Western New York MRI Enterprises continued as a consortium of local hospitals which included Erie County Medical Center (ECMC), Buffalo General Hospital, DeGraff Hospital, Sisters of Charity Hospital, and Mercy Hospital, among others. The New York Department of State documents regarding the status of Western New York MRI Enterprises has been provided.

At no time did the Applicant assume any contractual rights with MagnaCare as that contract remained with Western New York MRI Enterprises and not the Applicant herein. Dr. Seghany stated that at no time did the Applicant purchase or take over any PPO contracts from Western New York MRI Enterprises nor did they accept the assignment of any PPO contract from Western New York MRI Enterprises. Dr. Seghany states in his affidavit that the Applicant never accepted any assignment from Western New York MRI Enterprises of its rights to any existing contract with MagnaCare which was entered into with Western New York MRI Enterprises in 1999. No consent was ever obtained from MagnaCare under the 1999 contract consenting to an assignment from Western New York MRI Enterprises to the Applicant herein.

Furthermore, Dr. Seghany in his affidavit expressly states that a former employee of theirs, Donna Forcier, a former billing manager, did not have authority from the Applicant to enter into contracts.

Over the years, multiple prior office staff attempted to obtained a copy of the 1999 agreement allegedly executed by the Applicant and MagnaCare. MagnaCare never provided such an agreement and only provided an addendum signed by the former business manager, Donna Forcier.

It is clear from the affidavits in this case, that a 1999 MagnaCare Diagnostic Network Agreement was signed by Western New York MRI Enterprises a domestic corporation. It had a separate tax ID number. This contract was not signed by anyone who was a partner with the Applicant. It was signed 4 years prior to the Applicant being formed.

Dr. Seghany has clearly stated that the Applicant did not purchase or acquire the 1999 MagnaCare contract from Western New York MRI Enterprises. In the 1999 contract at paragraph 7.12, this discusses "assignment and delegation." No where has there been a proper assignment and delegation under the original contract by the Applicant in this

case. MagnaCare has not produced any paperwork required by the 1999 MagnaCare contract to indicate it was assigned from Western New York MRI Enterprise, Inc. to the Applicant.

Dr. Seghany, a partner of the Applicant has clearly stated it is not a successor of Western New York MRI Enterprises which continue to do business through 2024. An uploaded MagnaCare contract does not apply to the Applicant for the following reasons:

- It was signed over 4 years prior to the Applicants creation;
- It was signed by Dr. Pordell who has never been a partner or had any legal affiliation with the Applicant;
- The 1999 MagnaCare contract that bears tax ID number not associated with the Applicant for the 1999 MagnaCare contract which involves a corporation not a limited liability partnership;
- There is zero evidence of any assignment from Western New York MRI Enterprises to the Applicant;
- The Applicant is not a successor or an assignee in any way of Western New York MRI Enterprises, Inc.; and
- MagnaCare cannot demonstrate privity of contract between itself and the Applicant and as such any addendum/annulments are void.

Applicants counsel points out there is zero evidence of any assignment from Western New York MRI Enterprises, Inc. of the 1999 MagnaCare contract to the Applicant. Specifically, the 1999 contract is unambiguous regarding assignments as it addresses them in paragraph 7.12 "neither party to this agreement may assign its rights or delegate its duties under this agreement without prior written consent of the other party, which consent shall not be unreasonably withheld."

Legal Standard

Respondent has the burden of coming forward with competent evidentiary proof to support its fee schedule defenses. See, Robert Physical Therapy PC v. State Farm Mutual Auto Ins. Co., 2006 NY Slip 26240, 13 Misc.3d 172, 822 N.Y.S.2d 378, 2006 N.Y. Misc. LEXIS 1519 (Civil Ct, Kings Co. 2006). See also, Power Acupuncture PC v. State Farm Mutual Automobile Ins. Co., 11 Misc.3d 1065A, 816 N.Y.S.2d 700, 2006 NY Slip Op 50393U, 2006 N.Y. Misc. LEXIS 514 (Civil Ct, Kings Co. 2006). If Respondent fails to demonstrate by competent evidentiary proof that a plaintiff's claims were more than the appropriate fee schedules, defendant's defense of noncompliance with the appropriate fee schedules cannot be sustained. See, Continental Medical PC v. Travelers Indemnity Co., 11 Misc.3d 145A, 819 N.Y.S.2d 847, 2006 NY Slip Op 50841U, 2006 N.Y. Misc. LEXIS 1109 (App. Term, 1st Dep't, per curiam, 2006). The same burden applies when it is based on a PPO contract, see multiple AAA Decisions: 17-24-1340-2568; 17-24-1350-7879; 17-24-1361-9937, et al.

NY General Obligations Law § 5-903(2) provides that: "No provision of a contract for service, maintenance or repair to or for any real or personal property which states that the term of the contract shall be deemed renewed for a specified additional period unless the person receiving the service, maintenance or repair gives notice to the person

furnishing such contract service, maintenance or repair of his intention to terminate the contract at the expiration of such term, shall be enforceable against the person receiving the service, maintenance or repair, unless the person furnishing the service, maintenance or repair, at least fifteen days and not more than thirty days previous to the time specified for serving such notice upon him, shall give to the person receiving the service, maintenance or repair written notice, served personally or by certified mail, calling the attention of that person to the existence of such provision in the contract."

NY GOL § 5-903(2) has been held to apply to vendors who provide healthcare practice management and similar provider networks. See Healthcare I.Q., LLC v. Tsai Chung Chao, 986 N.Y.S.2d 42, 45 n.1 (N.Y. App. Div. 2014).

It is Applicant's position that there is no valid VPN/PPO between MagnaCare and WNY MRI LLP. However, even if arguendo, there was a valid contract, its terms are an annual automatic renewal. On this basis, it is clear that this contract would be subject to the provisions of NY GOL § 5-903(2). There has been no evidence whatsoever that MagnaCare has adhered to the provisions of NY GOL § 5-903(2) regarding automatic renewal.

For all of the foregoing reasons, the Respondent has failed to prove a valid contract exists between MagnaCare and the Applicant. CoreChoice has failed to adhere to the provisions of NY GOL 5-903(2) and therefore any contract terms are unenforceable.

The Applicant is entitled to be reimbursed for the three dates of service in the amended amount of $984.80.

An award for the Applicant in the amended amount of $984.80.

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
	Western NY MRI LLP	**01/05/23 - 01/05/23**	**$258.00**		**Awarded: $183.34**
	Western NY MRI LLP	**01/05/23 - 01/05/23**	**$258.00**		**Awarded: $258.00**
	Western NY MRI LLP	**01/06/23 - 01/06/23**	**$103.00**		**Awarded: $36.46**
	Western NY MRI LLP	**01/06/23 - 01/06/23**	**$294.00**		**Awarded: $182.64**
	Western NY MRI LLP	**01/06/23 - 01/06/23**	**$92.00**		**Awarded: $34.89**
	Western NY MRI LLP	**02/14/23 - 02/14/23**	**$300.00**		**Awarded: $289.47**
Total			**$1,305.00**		**Awarded: $984.80**

B. The insurer shall also compute and pay the applicant interest set forth below. 10/25/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Since the claim(s) in question arose from an accident that occurred on or after April 5, 2002, all denials were issued in a timely manner, and a demand for arbitration was not filed within 30 days thereafter, the insurer shall compute interest from the above arbitration filing date, at the rate of 2% per month, simple (not compounded), on a pro rata basis 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).

C. Attorney's Fees

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

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 11 NYCRR 65-4 (Insurance Regulation 68-D). Accordingly, the insurer shall pay the applicant an attorney's fee, in accordance with newly promulgated 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 Erie

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

06/24/2025
(Dated)

Douglas Coppola

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:
395d4e50c9284a530d1e534364e2f198

Electronically Signed

Your name: Douglas Coppola
Signed on: 06/24/2025