

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Medcomfort Supply, Inc.
(Applicant)

- and -

Allstate Fire & Casualty Insurance Company
(Respondent)

AAA Case No. 17-24-1360-9546
Applicant's File No. 176156
Insurer's Claim File No. 0746648013
NAIC No. 29688

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: J.K.

1. Hearing(s) held on 07/08/2025
Declared closed by the arbitrator on 07/08/2025

John Gallagher, Esq. from The Law Offices of John Gallagher, PLLC participated virtually for the Applicant

Steven Miranda, Esq. from Law Offices of John Trop participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,648.38**, 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 was paid late?

Whether Applicant filed prematurely?

4. Findings, Conclusions, and Basis Therefor

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

I find that the provider made a *prima facie* therefore Respondent has the burden to rebut the claim with proof that the health care services were not medically necessary or with some other viable defense (See *Amaze Med. Supply v. Eagle Ins. Co.* 2 Misc. 3rd 128[A] 2003. *Ave T. MPC Corp. v. Auto One Ins. Co.* 32 Misc 3rd 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).

As a complete proof of claim is a prerequisite to receiving no fault benefits, a claim need not be paid or denied until all demanded verification is provided (see, 11 NYCRR 65- 3.5[c]; *Montefiore Med. Ctr . NY Central Mutual Fire Ins. Co.,* 9 A.D.3d 354, 780 N.Y.S.2d 161 (2nd Dep't 2004); *NY & Presbyterian Hosp. v. American Transit Ins. Co.,* 287 A.D.2d 699, 733 N.Y.S.2d 80 (2nd Dep't 2001); *Hosp. for Joint Diseases v. Elrac, Inc. ,* 11 A.D.3d 432, 783 N.Y.S.2d 612 (2nd Dep't 2004).

When verification has properly been requested on a claim, a follow up request has been issued and verification has not been received, any action or arbitration to collect that claim is premature. *Metroscan Medical Diagnostics PC v. Progressive Cas. Ins. Co.,* 15 Misc.3d 126A, 836 N.Y.S.2d 500, 2007 NY Slip Op 50500U, 2007 N.Y. Misc. LEXIS 903 (App. Tm, 2nd Dep't 2007); *Doshi Diagnostic Imaging Servs. v. State Farm Ins. Co.,* 16 Misc.3d 42, 842 N.Y.S.2d 153, 2007 NY Slip Op 27193, 2007 Misc. LEXIS 3524 (App. Tm, 2nd Dep't 2007); *Elmont Open MRI & Diagnostic Radiology P.C. d/b/a/ All County Open MRI & Diagnostic Radiology v. State Farm Ins. Co.,* 15 Misc.3d 139A, 841 N.Y.S.2d 819, 2007 NY Slip Op 50988U, 2007 N.Y. Misc. LEXIS 3526 (App. Term, 2d Dept 2007).

Facts:

In this case the bill in question was for date of service of 4/5/2024 in the amount of \$1,648.38. According to the AR-1 and supporting documentation filed on 8/14/2024 there are two bills. Bill 1 is in the amount of \$502.63 and bill 2 is in the amount of \$1,145.75 both for date of service of 4/5/2024.

For bill 1, in the amount of \$502.63 Respondent acknowledges that the bills were dated 5/13/2024 and on 5/14/2024 and again on 6/14/2024 Respondent issued Explanation of Bill Processing and Request for Information advising Applicant as follows:

All claims for no fault benefits are being delayed pending Allstate's investigation and the examinations under oath of C.D., M.J.C., K.J. D.B. and D.R. Allstate Insurance Company is seeking to verify proof of claim. Allstate Insurance Company

is seeking particulars regarding the nature and extent of the injuries, treatment received and contemplated; proof of the accident facts and the amount of loss sustained.

For bill 2 in the amount of \$1,145.75 same was also received on 5/13/2024 and on 5/21/2024 and on 6/21/2024 the same delay information was sent to Applicant.

Respondent uploaded the bust statement for the EUO of C.D. of 6/18/2024; the EUO of C.D. dated 8/22/2024;

Respondent uploaded the of bust statement for the EUO of M.J.C. dated 6/17/2024; the bust statement for the EUO of M.J.C. dated 8/22/2024;

Respondent uploaded the EUO of K.J. dated 6/17/2024;

Respondent uploaded the of bust statement for the EUO of D.B. dated 6/18/2024;

Respondent uploaded the EUO of D.R. dated 6/20/2024;

Based upon the above, with the last EUO conducted on 8/22/2024 Respondent contends that the bills were timely paid on 9/11/2024.

Applicant acknowledges receipt but contends that the delay letters / documents were non specific as the EUO dates were not included. I see nothing in the regulations to require any further explanation, in this case, as to why the bills were delayed.

Respondent therefore argues that in this case the filing was premature and had Applicant wanted any specific information regarding EUO dates, it could have inquired.

Decision:

Pursuant to 11 N.Y.C.R.R. § 65-4.5 (o) (1) provides, in part: "(o) Evidence. (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.***" Additionally, Master Arbitrator Peter J. Merani, in the case of *Sports Medicine & Ortho. Rehab. a/a/o "I.B." v. Country-Wide Ins. Co.*, AAA Case No. 17-R-991-14272-3, stated, in relevant part, that "***the Arbitrator below is the trier of facts and must evaluate and weigh the evidence presented at the hearing in arrive at [his/her] decision. The Arbitrator, in weighing the evidence, has broad powers and discretion in determining what evidence is relevant and material. The Arbitrator is in the best position to evaluate the evidence*** and decide on the credibility of the submitted documents." Furthermore, it is within the province of an arbitrator to determine what evidence to accept or reject and what inferences should be drawn based on the evidence. See: *Mott v. State Farm*, 55 NY2d 224 (1982).

In this case having considered the arguments of the parties and having reviewed the evidence herein, I do find that Applicant filed prematurely, however, as the bills were paid in full, Applicant's claim is therefore 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 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.

07/09/2025
(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:
baa08d3ba53f64aa824bd3091615da9a

Electronically Signed

Your name: Teresa Girolamo, Esq.
Signed on: 07/09/2025