

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Parkway Ambulatory Surgery Center
(Applicant)

- and -

Allstate Fire & Casualty Insurance Company
(Respondent)

AAA Case No. 17-25-1387-6542
Applicant's File No. MAT-25021455119
Insurer's Claim File No. 0733020168
NAIC No. 29688

ARBITRATION AWARD

I, Matthew Maroney, 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

1. Hearing(s) held on 08/25/2025
Declared closed by the arbitrator on 08/25/2025

Tracy Redmond from Brandon J. Broderick, Attorney at Law participated virtually for the Applicant

Dana Nolan from Law Offices of John Trop participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$4,236.96**, was AMENDED and permitted by the arbitrator at the oral hearing.

The amount in dispute was amended and reduced by counsel for the applicant healthcare provider down to \$2554.26 to be in compliance with its own Certified Professional Fee Coder ("CPFC")'s affidavit which compared the New York fee schedule rate to the New Jersey fee schedule rate and where the New York rate was \$2667.67 as compared to the New Jersey rate of \$2554.26, the lower of the two should prevail pursuant to fee schedule.

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

3. Summary of Issues in Dispute

This is a claim for the facility fee associated with epidural steroid injections and an epidurography at two levels, performed on the EIP on 11/5/24 following an accident which occurred on 10/18/23.

The respondent defends this claim based upon fee schedule and argued that under the EAPG the proper reimbursement would be \$1423.90. However, this arbitrator notes that the respondent did not issue a denial of this claim but simply relies upon its submission of an Explanation of Benefits (EOB) but there is no denial in evidence.

Therefore, the issue is whether the respondent has properly supported its fee schedule defense.

4. Findings, Conclusions, and Basis Therefor

My decision is based upon the issue or issues set forth below, and the arguments of representatives for both parties, as well as those documents properly and timely submitted to and contained in the ADR Center for this case, as of the date of this arbitration, unless further precluded or admitted as set forth below.

The law applicable to the issue or issues set forth above are set forth and analyzed below.

It is well-settled that a medical provider establishes a prima facie case of entitlement to payment of no-fault benefits upon the submission of a proper claim form setting forth the fact and the amount of the losses sustained as well as the additional fact that the payment of no-fault benefits was then overdue. Insurance law 5106 (a); *Mary Immaculate Hospital v. Allstate Insurance Co.*, 5 A.D. 3d 742; *Amaze Medical Supply, Inc. v. Eagle Insurance Co.*, 2 Misc 3d 128 (A).

When a fee schedule defense is raised, the respondent has the burden to establish that the fees charged by the applicant exceed the amount set forth in the appropriate fee schedule, and must produce competent evidentiary proof to support the defense. *New York Hosp. Med. Ctr. of Queens v. Country-Wide Ins. Co.*, 295 A.D.2d 583, 586 (2d Dept. 2002)

A fee schedule defense must be rejected where the insurer fails to address how the amount charged by the provider was in excess of the fee schedule. *Jesa Medical Supply, Inc. v. Geico Ins. Co.*, 25 Misc..3d 1098, 2009 N.Y. Slip Op. 29386 (N.Y. Civ. Ct. 2009).

However, if an insurer presents sufficient evidence substantiating its denial or fee reduction pursuant to the applicable fee schedule, the burden shifts to the provider of services to rebut the carrier's fee schedule interpretation. *Natural Acupuncture Health, P.C. v. Praetorian Ins. Co.*, 30 Misc. 3d 132A (App Term 1st Dep't 2011).

A no-fault claim must be paid or denied within 30 calendar days after proof of claim is received. See New York Insurance Law Section 5106 (a) and/or 11 NYCRR Section 65.15 (g)(3) *Presbyterian Hospital v. Maryland Cas. Co.*, 90 NYS2d 274, 660 NYS2d 536 (1997).

Here, the evidence shows that the respondent has not paid, denied or delayed this claim within 30 days of receipt of the bill.

Therefore, considering that the applicant healthcare provider clearly made a prima facie case, and the respondent clearly did not deny this claim and therefore did not submit competent admissible evidence to support its denial, but rather simply relies upon an EOB that generally should be something that supports an actual denial, I find the respondent has not properly denied this claim.

Additionally, is noted that the applicant healthcare provider did submit an affidavit of a CPFC to support its claim and in particular its amended amount in dispute.

For the reasons set forth herein, I find in favor of the applicant and grant this claim in its entirety.

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
	Parkway Ambulatory Surgery Center	11/05/24 - 11/05/24	\$4,236.96	\$2,554.26	Awarded: \$2,554.26
Total			\$4,236.96		Awarded: \$2,554.26

B. The insurer shall also compute and pay the applicant interest set forth below. 02/20/2025 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Where a claim is timely denied, or not denied or paid, interest shall accrue as of the 30th day following the date the claim is presented by the claimant to the insurer for payment. Where a claim is timely denied, interest shall accrue as of the date an action is commenced or an arbitration requested, unless an action is commenced or an arbitration requested within 30 days after the receipt of the denial, in which event interest shall begin to accrue as of the date the denial is received by the claimant, 11 NYCRR 65-3.9(c). The end date for the calculation of interest shall be the date of payment of the claim. In calculating interest, the date of accrual shall be excluded from the calculation. General Construction Law Section 20 ("The day from which any specified period of time is reckoned shall be excluded in making the reckoning.") Where a motor vehicle accident occurs after April 5, 2002, interest shall be calculated at the rate of 2% per month, simple, calculated on a pro rata basis using a 30-day month. 11 NYCRR 65-3.9 (a).

C. Attorney's Fees

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

For cases filed on or after February 4, 2015, the attorney's fee shall be calculated as follows: 20% of the amount of first-party benefits awarded, plus interest thereon, subject to no minimum fee, and a maximum fee of \$1360.

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

09/24/2025
(Dated)

Matthew Maroney

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:
fe9a296e32cbe6c8af282690759694c9

Electronically Signed

Your name: Matthew Maroney
Signed on: 09/24/2025