

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

CareWell Health Medical Center
(Applicant)

- and -

New Jersey Manufacturers Insurance Co
(Respondent)

AAA Case No. 17-25-1387-2229

Applicant's File No. SS-288283

Insurer's Claim File No. 20237411563

NAIC No. Self-Insured

ARBITRATION AWARD

I, Rebecca Feder, 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 09/25/2025
Declared closed by the arbitrator on 09/25/2025

Greg Itingen, Esq. from Samandarov & Associates, P.C. participated virtually for the Applicant

Larry Rogak, Esq. from The Law Office of Lawrence N. Rogak LLC participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$70,288.98**, was AMENDED and permitted by the arbitrator at the oral hearing.

Applicant amends the amount ins dispute to \$6,206.95.

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

3. Summary of Issues in Dispute

Applicant is seeking reimbursement of the facility fee for a lumbar spine surgery. It is Respondent's position that the AAA does not have jurisdiction over this matter. This proper forum is New Jersey, not New York. Therefore, the case should be dismissed without prejudice.

This arbitration arises out of treatment of a 35 year old female for the facility fee for a lumbar spine surgery performed on 12/16/24. The EIP was involved in a motor vehicle accident on 11/4/23. It is Respondent's position that the AAA does not have jurisdiction over this matter. This proper forum is New Jersey, not New York. Therefore, the case should be dismissed without prejudice.

4. Findings, Conclusions, and Basis Therefor

These findings and conclusions are based on my review of the records on the ADR Center maintained by the American Arbitration Association as of the date the hearing was declared closed and oral argument at the hearing. 11 NYCRR § 65-4.5(o)(1) provides that an arbitrator shall be the judge of the relevance and materiality of the evidence offered, and strict conformity to the legal rules of evidence shall not be necessary. The arbitrator may question or examine 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 arbitration arises out of treatment of a 35 year old female for the facility fee for a lumbar spine surgery performed on 12/16/24. The EIP was involved in a motor vehicle accident on 11/4/23. It is Respondent's position that the AAA does not have jurisdiction over this matter. This proper forum is New Jersey, not New York. Therefore, the case should be dismissed without prejudice.

It is Applicant's Prima Facie obligation to establish its entitlement to payment for each service for which reimbursement is sought. It is well settled that a health care provider establishes its Prima Facie entitlement to payment as a matter of law by proof that it submitted a proper claim, setting forth the fact and the amount charged for the services rendered and that payment of no-fault benefits was overdue (see Insurance Law §5106 a; *Mary Immaculate Hosp. v. Allstate Ins. Co.*, 5 AD 3d 742, 774N.Y.S. 2d 564 [2004]; *Amaze Med. Supply v. Eagle Ins. Co.*, 2 Misc. 3d 128A, 784 N.Y.S. 2d 918, 2003 NY Slip Op 51701U [App Term. 2nd & 11th Jud Dists]).

Herein, Applicant established its Prima Facie entitlement to first party no- fault benefits by proof that it submitted a claim setting forth the fact and amount of the loss sustained and that payment of no-fault benefits were overdue.

It is Respondent's position that this claim should be dismissed without prejudice as this is not the proper forum; New Jersey is the proper forum.

The EIP is a resident of New Jersey, this is a New Jersey policy, and the surgery at issue is performed in New Jersey. The only contact to New York is the location of the motor vehicle accident.

Respondent's arbitration contentions state:

According to center of gravity doctrine, when there is a choice-of-law question, the law of the jurisdiction with the most significant relationship to the transaction or event applies. Therefore, applying this doctrine, New Jersey law should apply to this matter. This matter is not about interpreting the New Jersey fee schedule. The New Jersey No-Fault laws are quite different from the New York State no-fault law in that medical necessity must be established before treatment is rendered. In New Jersey, there are also certified medical review organizations to determine medical necessity, standards for medical review organizations (See, N.J.A.C. 11:3-5.8 and 11:3-5.9), and pre-arbitration discovery. N.J.A.C. 11:3-5 states: **SUBCHAPTER 5. PERSONAL INJURY PROTECTION DISPUTE RESOLUTION 11:3-5.1 Purpose and scope (a) The purpose of this subchapter is to establish procedures for the resolution of disputes concerning the payment of medical expense and other benefits provided by the personal injury protection coverage in policies of automobile insurance. This subchapter implements N.J.S.A. 39:6A-5.1 and 5.2, which provide that PIP disputes shall be resolved by binding alternate dispute resolution as provided in the policy form approved by the Commissioner. This subchapter also implements provisions of N.J.S.A. 2A:23A-1 et seq., as applicable to PIP dispute resolution. And 11:3-5.6 Conduct of PIP dispute resolution proceedings states: (a) A request for dispute resolution of a PIP dispute may be made by the injured party, the insured, a provider who is an assignee of PIP benefits pursuant to N.J.A.C. 11:3-4.9 or the insurer, in accordance with the terms of the policy as approved by the Commissioner. The request for dispute resolution may include a request for review by a medical review organization. 11:3-5.8 Medical review organizations (a) Medical review organizations shall be authorized to determine in connection with the PIP dispute resolution process set forth in this subchapter: 1. Whether the medical treatment or diagnostic test is medically necessary; 2. Whether the treatment is in accordance with medically recognized standard protocols including those protocols approved by the Commissioner and set forth in N.J.A.C. 11:3-4; 3. Whether the treatment is consistent with symptoms or diagnosis of the injury; 4. Whether the injury is causally related to the accident; 5. Whether the treatment is of a palliative rather than a restorative nature; and 6. Whether medical procedures and tests that have been repeated are medically necessary.**

Here the EIP is a resident of New Jersey, is the owner of the vehicle and therefore the insured, and receives treatment from a provider in New Jersey, then the matter should be arbitrated in the New Jersey no-fault forum, Forthright Solutions. See, All City Medical Supply Inc. and Geico Insurance Company, AAA Case No. 17-21-1219-8939. The policy holder accepts these standards and limitations when they accept the coverage. This is not merely a jurisdiction issue or one of "significant contacts." It is a venue/forum issue, as well as a contractual issue and one of conditions precedent to treatment. New Jersey law of personal injury protection insurance (PIP) requires that the proper dispute resolution forum wherein providers may seek reimbursement for their treatment is Forthright Solutions. Assuming, the plaintiff will argue, that a New York application utilized in this matter constitutes a waiver of any jurisdictional defenses to that we would

argue, using a form that states that an applicant may submit the dispute to arbitration does not confer jurisdiction where none exists, especially as this matter entails an analysis of the issue of medical necessity and the requirement to establish medical necessity before obtaining treatment. Jurisdiction can be raised at any time, and in *ATB Services Inc. v. Geico*, AAA case 17-20-1153- 1906 (07/05/21), New York No-Fault arbitration is available only when there are matters in dispute under New York's No-Fault Law. See Insurance Law § 5106(b). Further, interpretation of no-fault law is premised on contract law, not tort law. *Government Employees Insurance Company v. Sheerin*, 65 AD 2d 10,410 NYS 2d 641 (2d Dept. 1978) in *Matter of Allstate Insurance Company v. Stolarz*, 81 NY 2d 219 (1993). The court held that any conflict between New York and New Jersey law concerning an insurer's right to receive benefits under a New Jersey policy should be governed by New Jersey law rather than New York law. It is clear that New York does not have any concern with the issues raised in this litigation (*Cooney v. Osgood Mach*, 81 NY 2d 66, 595 NYS 2d 919 (1993) and is therefore an inappropriate forum, See *Advanced Recovery Equipment and Supplies v. Progressive*.

I am persuaded by Respondent's arguments and find that New York is an improper forum here. I find that New Jersey is the proper forum. This matter is therefore DISMISSED WITHOUT PREJUDICE.

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 DISMISSED without prejudice

This award is in full settlement of all no-fault benefit claims submitted to this arbitrator.

State of NY
SS :
County of Suffolk

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

10/25/2025
(Dated)

Rebecca Feder

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:
a28cc758d58a20e8ee8ad2a230221bcd

Electronically Signed

Your name: Rebecca Feder
Signed on: 10/25/2025