

American Arbitration Association  
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Brooklyn Medical Practice, PC  
(Applicant)

- and -

Allstate Property and Casualty Insurance  
Company  
(Respondent)

AAA Case No. 17-25-1409-4485

Applicant's File No. AR25-28380

Insurer's Claim File No. 0767479025

NAIC No. 29688

### **ARBITRATION AWARD**

I, Gary Peters, 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 03/20/2026  
Declared closed by the arbitrator on 03/20/2026

Jeffrey Kramer from Law Office of Jeffrey M. Kramer participated virtually for the Applicant

Kevin Lynch from Law Offices Of Richard Schoenberg participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,859.80**, 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

**The Assignor was a 30 year old male who was a restrained driver of a motor vehicle and involved in an accident on 8/26/24.**

**Applicant is seeking payment for medical services provided on 8/27/24 - 1/13/25. Respondent denied payment of the claim for failure of the Assignor to appear and attend an Examination Under Oath and for various fee schedule issues.**

#### 4. Findings, Conclusions, and Basis Therefor

**This hearing was conducted using the Electronic Case Folder maintained by the American Arbitration Association. All documents contained in that folder are made part of the record of the hearing and I have reviewed the documents contained therein. Any documents submitted after the hearing or at the hearing that have not been entered in the Electronic Case Folder as of the date of this award, will be listed immediately below this language and forwarded to the American Arbitration Association at the time this award is issued for inclusion.**

As stated above, the Assignor was a 30 year old male who was a restrained driver of a motor vehicle and involved in an accident on 8/26/24. Applicant is seeking payment for medical services provided on 8/27/24 - 1/13/25.

On 11/14/25, I presided over A.A.A. #17-25-1386-8727 in a case involving a different Applicant which was denied by the Respondent for failure of the same Assignor to appear and attend an Examination Under Oath.

The only issue to be determined is if Respondent timely and properly denied payment of the claim.

As stated in my prior decision, Applicant argued against the sufficiency of Respondent's denial of claim form. Specifically, Applicant argues that the denial fails to adequately state the basis for denial in its text as the dates of non-appearance are incorrect. The evidence before me indicates that the Assignor allegedly failed to appear at EUO's on 11/12/24 and 1/7/25. The denial of claim form lists 11/6/24 and 12/19/24 as the dates of the alleged no show. In response, Respondent argues that the omission is de minimis and does not serve to vitiate its defense.

Moreover, 11 NYCRR §65-3.8(h) states that:

With respect to a denial of claim (NYS Form N-F 10), an insurer's non-substantive technical or immaterial defect or omission shall not affect the validity of a denial of claim.

Further cementing the notion that insurance carriers need not include intricate detail in their denial forms, the Appellate Term, Second Department, citing with approval AB Med. Servs. PLLC v. Liberty, 39 A.D.3d 779, held that a denial asserting an EUO no-show defense need not include the dates of the no-show. See Quality Psychological Services PC v. Avis Rent-A-Car Systems, LLC, 47 Misc.3d 129(A) (App. Term, 2d Dept, 2015). Specifically, the Court held that a denial simply stating that benefits were denied because the plaintiff's Assignor had failed to appear for two properly scheduled examinations under oath was not conclusory, vague or without merit as a matter of law. *Id.* At 129. See also JYW Med., P.C. v. IDS Prop. Ins. Co., 2017 NY Slip Op 51800(U), decided on December 19, 2017; Appellate Term, Second Department: We note that a denial of claim form based upon the failure to appear for scheduled EUO's need not set forth the dates of the EUO's. An insurer's denial of a claim is not invalidated by non-substantive technical or immaterial defects or omissions in the denial notice.

Under 11 NYCRR §65-3.8(h) and the New York Court of Appeal's seminal decisions, mere technical omissions do not invalidate an otherwise proper claim denial where, as here, the essential basis for denial is clearly communicated. See New York Hosp. Med. Ctr. of Queens v. Country-Wide Ins. Co., 295 A.D.2d 583, 584-85 (2d Dept. 2002) (technical defects in denial notices do not void otherwise valid denials); A.B. Med. Servs. PLLC v. Commercial Mut. Ins. Co., 12 Misc. 3d 8(App. Term 2d Dept. 2006). See Presbyterian Hospital v. Maryland Casualty Co., 90 N.Y. 2d 283 (1997) (holding that technical defects do not nullify an otherwise valid denial); FAIR PRICE MED. v. Travelers, 10 N.Y. 3d 556, 565 (2008) (reaffirming that "technical defects" in denial notices do not void the denial where the basis is clearly stated). Most recently, in Aries Chiropractic, P.C. v. Ameriprise Ins. Co., 66 Misc. 3d 130(A) (2019), the court explicitly rejected the argument that denial forms must include EUO dates, holding that "Had it been the intent of the Department of [Financial Services] to require the carrier to set forth [the dates of the scheduled EUO's] in the prescribed denial of claim form (see NYS Form N-F 10; 11 NYCRR 65-3.4[c] [11]), it would have so provided." This ruling aligns with earlier decisions in Actual Chiropractic P.C. v. Mercury Cas. Co., 52 Misc. 3d 144(A) (App. Term 2d Dept. 2016) and Quality Psychological Services PC v. Avis Rent-A-Car Systems, LLC, 47 Misc. 3d 129(A) (App. Term, 2d Dept., 2015), which held that omission of EUO dates from a denial notice constitutes a non-substantive technical matter that does not invalidate the denial under the No-Fault Regulations.

In Quality Psychological Services PC v. Avis Rent-A-Car Systems, LLC, 47 Misc.3d 129(A) (App. Term, 2d Dept, 2015), and Actual Chiropractic v. Mercury, 2016 NY Slip Op 51435 [App. Term 2d Dept. 2016], the Appellate Court held that the failure to set forth the dates of the scheduled EUO's in the denial "did not render the denial conclusory, vague or without merit as a matter of law".

Allstate's denial explicitly stated that the basis for denial was Applicant's failure to appear for duly executed Examinations Under Oath, as required under 11 NYCRR § 65-3.8. This unambiguous statement satisfies both the specificity requirements under New York Insurance Law § 3420(d)(2) and the No-Fault regulatory framework, providing clear notice to Applicant of the precise ground for denial. As confirmed by the Appellate Term in JYW Med., P.C. v. IDS Prop. Ins. Co. and Quality Psychological Services PC, such notice is sufficient without inclusion of specific EUO dates. The Second Department's recent decision in Quality Psychological Services PC v. Avis Rent-A-Car Systems, LCL, 47 Misc. 3d 129(A) (App. Term, 2<sup>nd</sup> Dept., 2015) directly supports the sufficiency of such notice. Further, there is nothing in the No-Fault Regulation 65-3.8 providing that the dates of the missed EUO's be in denials.

The insured's failure to appear for the Examination Under Oath (EUO) dates, even if not explicitly mentioned in the denial of claim, likely constitutes a breach of the policy terms under New York Insurance Law §3420, thereby justifying the denial of the claim by Allstate. After reviewing all the evidence, as in my prior case, I agree with Respondent's counsel and find that the Denial of Claim for failure of the Assignor to appear and attend properly scheduled EUO's is valid and that the "improper dates for the no-shows were de minimus".

Accordingly, the claim is denied for the reasons as stated herein.

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 NY  
SS :  
County of Nassau

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

04/18/2026  
(Dated)

Gary Peters

**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:**  
ad4c22750d496ddbc3651fa7eedbc5be

**Electronically Signed**

Your name: Gary Peters  
Signed on: 04/18/2026