American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Union Anesthesia Associates (Applicant)	AAA Case No.	17-25-1422-8910
	Applicant's File No.	432532
- and -	Insurer's Claim File No.	12062-01
	NAIC No.	Self-Insured
State National Insurance Company (Respondent)		

ARBITRATION AWARD

I, Preeti Priya, 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 (JM)

1. Hearing(s) held on 05/20/2026
   Declared closed by the arbitrator on 05/20/2026

   Neil Menashe, Esq., from Neil Menashe Attorney at Law P.C. participated virtually for the Applicant

   Robert Becker, Esq., from Ginsberg, Becker & Weaver, LLP participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **$1,200.00**, was AMENDED and permitted by the arbitrator at the oral hearing.

   Applicant's counsel, at the hearing, amended the amount in dispute to $510.17 based upon the evidence submitted by Respondent.

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

3. Summary of Issues in Dispute

   The disputes arise from the underlying automobile accident of October 1, 2023, in which the Assignor, then a 43-year-old female, was a pedestrian. The issues in this matter are:

Whether Applicant established entitlement to No-Fault compensation for anesthesia fees associated with injections provided to Assignor;

Whether Respondent made out a prima facie case of lack of medical necessity and, if so, whether Applicant rebutted it.

4. Findings, Conclusions, and Basis Therefor

At the hearing held virtually via Zoom, Applicant was represented by Neil Menashe, Esq., who presented oral arguments and relied upon documentary submission at the hearing. Robert Becker, Esq., representing Respondent, presented oral arguments and relied upon documentary submissions. I have reviewed the submission contained in the American Arbitration Association's ADR Center. These submissions are the record in this case.

The records indicate that Assignor was evaluated by medical professionals of various specialty. She received conservative care including chiropractic treatment. Assignor underwent various diagnostic tests. On June 7, 2024, injections, sedation and related services were provided to Assignor. Applicant submitted the anesthesia bill to Respondent; payment was denied.

After reviewing the record and evidence presented, I find that Applicant established a prima facie case of entitlement to reimbursement of its claim. Mary Immaculate Hospital v. Allstate Insurance Company, 5 A.D.3d 742, 774 N.Y.S.2d 564 (2nd Dept. 2004). Therefore, the burden now shifts to the Respondent to demonstrate lack of medical necessity. See Alvarez v. Prospect Hosp., 68 N.Y.S.2d 320, 501 N.E.2d 572, 508 N.Y.S.2d [1986]; A.B.Medical Services v. Geico Ins. Co., 2 Misc 3d 26 [App Term 2d and 11th Jud Dists, 2003].

On October 30, 2025, Jeffry R. Beer, MD, performed a peer review at Respondent's request regarding medical necessity. He reviewed Assignor's medical records including examination reports, progress notes, diagnostic test results and prescription. He then summarized the accident and outlined the treatment of the Assignor.

The No-Fault carrier may rebut the inference of medical necessity by providing proof that the claimed healthcare benefits were not medically necessary. A. Khodadadi Radiology, P.C. v. New York Central Mutual Fire Ins Co., 16 Misc 3d 131(A), 841 N.Y.S.2d 824, 2007 N.Y. Slip Op 51342(U) (App Term, 2nd Dept - 2007); Delta Diagnostic Radiology, P.C. v. Progressive Casualty Ins. Co., 21 Misc 3d 142(A), 2008 NY Slip Op 52450(U) (App Term, 2nd Dept - 2008); Delta Diagnostic Radiology, P.C. v. Integon Natl. Ins. Co., 2009 NY Slip Op 51502(U) (App Term, 2nd Dept - 2009). Where the No-Fault carrier's proof consists of a peer review report, that report must be predicated upon a sufficient factual basis and medical rationale. AJS Chiropractic, P.C. v. Mercury Ins. Co., 2009 NY Slip Op 50208(U), 22 Misc 3d 133(A) (App Term, 2nd Dept - 2009).

Dr. Beer "concluded that medical necessity has been established for the cervical epidural steroid injection (62321), but not for the sedation provided during the procedure (01992-AA x 6) performed on June 7, 2024." He stated "The injection procedure offered in this case typically does not require the use of sedation and can be safely performed with local anesthetic alone. Exceptions are made only for patients presenting with unique circumstances, which are not suggested by the available medical records." He cited to medical literature in support of his conclusions. See AJS Chiropractic, P.C. v. Mercury Ins. Co., supra.

In A.B Med Servs., P.L.L.C. v. State Farm Mut Auto Ins Co., 7 Misc. 3d 822, 795 N.Y.S 2d 843 (App Term, 2ndDept - 2005) citing Baumann v. Long Is. R.R., 110 A.D.2d 739, 741 487 N.Y.S.2d 833 (AppDiv., 2nd Dept - 1985) the Court held that a plaintiff continues to bear the "burden of persuasion" and, if the carrier has satisfied the burden of coming forward, a "plaintiff must rebut it or succumb". Also see); Crotona Hgts. Med., P.C. v. Geico Ins. Co., 25 Misc 3d 142(A), 2009 NY Slip Op 52466(U) (AppTerm, 2nd Dept - 2009); AJS Chiropractic, P.C. v. Travelers Inc. Co., 25 Misc 3d 140(A), 2009 NY Slip Op 52446(U) (App Term, 2nd Dept , 2009).

I find Dr. Beer does not discuss lack of medical necessity of sedation in any detail to Assignor. He is conclusory and cites generally to literature. If the claimant can demonstrate, through references to the medical records or otherwise, that the peer review doctor's opinion lacks a sufficient basis and/or medical rationale because it is conclusory, or because it fails to address essential factual issues or is based upon disputed or apparently incorrect facts, the insurer has fallen short of its burden of proof. Novacare Medical P.C. v. Travelers Property Casualty Ins. Co., 31 Misc.3d 1205(A), 927 N.Y.S.2d 817 (Table), 2011 N.Y. Slip Op. 50500(U) at 4, 2011 WL 1226956 (Dist. Ct. Nassau Co., Michael A. Ciaffa, J., Apr. 1, 2011).

Dr. Beer states, "Exceptions are made only for patients presenting with unique circumstances" but does not list the unique circumstances, only a conclusory statement that "are not suggested by the available medical records." Further he states, "Notwithstanding practices to which practitioners in the USA may have been accustomed, elsewhere in the world these procedures have been and continue to be practiced without sedation.". Does this statement mean that the accustomed practice is to sedate for the injections? He found "The extent of patients' pre-procedural anxiety is also not typically such that sedation is requiredfor initial injection procedures" but then does not discuss whether Assignor had severe anxiety or none at all.

I find in favor of Applicant.

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**
	Union Anesthesia Associates	**06/07/24 - 06/07/24**	**$1,200.00**	**$510.17**	**Awarded: $510.17**
Total			**$1,200.00**		**Awarded: $510.17**

B. The insurer shall also compute and pay the applicant interest set forth below. 10/10/2025 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

   Applicant's award shall bear interest at a rate of two percent per month, calculated on a pro rata basis using a 30-day month from the date payment became overdue to the date of the payment of the award pursuant to 11 NYCRR 65-3.9 (a). The end date for the calculation of the period of interest shall be the date of payment of the claim. General Construction Law § 20 ("The day from which any specified period of time is reckoned shall be excluded in making the reckoning.")

C. Attorney's Fees

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

   Respondent shall pay Applicant a separate attorney's fee, in accordance with 11 NYCRR 65-4.6(d). Since the within arbitration request was filed on or 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 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 New York

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

05/27/2026
(Dated)

Preeti Priya

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:
a8817a69c6092853e217fc1427c05590

Electronically Signed

Your name: Preeti Priya
Signed on: 05/27/2026