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Moving Cases Along: Tackling Case Aging and Party Preparedness

Aged Cases. The goal of NYSI is the prompt resolution of no-fault claims and, as such, one of our 2017 initiatives is to resolve all cases 600 days and older. As the volume of no-fault filings increases, the AAA has been taking a closer look at our data and the amount of time it takes from filing a case to reaching a resolution. We monitor how many hearings it takes to resolve a claim by tracking continuances, adjournments, settlements and withdrawals. Aged cases usually involve a complicated issue that the parties cannot resolve in one hearing. Unfortunately, such cases may be adjourned multiple times, resulting in a delayed scheduling process of new cases. We at the AAA offer our assistance for resolution when these cases are identified.

Party Preparedness. Parties often report that the wait time to schedule a hearing can be quite long and that some hearings tend to be delayed. In investigating this issue, we observed that the lack of party preparedness is a factor that greatly contributes to the delay in scheduling. One of the NYSI 2017 initiatives is to encourage all participants in this forum to be prepared for their scheduled hearings in order to make the arbitration process more efficient for all parties involved. As the caseload grows and becomes more varied and complex, we work more closely with everyone involved in the no-fault arbitration process to ensure that hearings are carried out smoothly. This includes a detailed review of the medical records, denials and all relevant documents so that a concise discussion can be held. When a party or parties fail to review their files prior to a hearing, it can take an additional 15 minutes before one or both attorneys can address basic questions. This in turn causes a delay for the next case to be heard; therefore, party preparedness is a vital factor in the hearing process.

New Case Management Center to Open in Buffalo!

The NYSI is opening a Case Management Center in Buffalo, New York, as a response to the surge in case filings for no-fault reimbursement in the northwest region of the state. The target date to open the Case Management Center is late 2017. Additionally, independent research revealed a thriving job market with qualified candidates to fill positions in the new Buffalo office. The staffing model will closely mirror the one utilized in NYSI's New York City office. A fully staffed center will consist of an Assistant Vice President overseeing approximately 20 staff members responsible for intake, indexing, arbitrator support and other case administration functions. The new center's staff will focus on meeting the needs of the growing market in the region, while complementing the efforts of NYSI's offices in New York City. Just as important, the center also will provide support to NYSI panel arbitrators hearing cases in the region.



AAA Sponsors the New York Peace Institute

The NYSI is a proud sponsor of the New York Peace Institute, a not-for-profit organization dedicated to enabling parties engaged in disputes to reach innovative and sustainable solutions. In conjunction with staff, the Institute's volunteer mediators complete a training program and provide free dispute resolution services to residents of Brooklyn and Manhattan. Other services provided by the Institute include fee-based facilitation, dialogue and consensus building to clients such as the United Nations, New York City Department of Education and the Jewish Association Serving the Aging (JASA).

In December 2016, the New York Peace Institute presented to NYSI an overview of its mediation training services. NYSI is exploring ways to team up with the Institute to provide professional development for NYSI staff not ordinarily involved in the conciliation process. The mediation training incorporates team building, negotiation and creative problem-solving techniques, which are all essential skills in administering the no-fault caseloads.



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Settlement Initiatives

Despite the growing caseload, we have maintained a 45% conciliation rate over the past six years, positively benefiting all of our customers. We continue to find innovative ways to accommodate our customer needs and the growing caseload.

Business Intelligence Unit Reports. Our Business Intelligence Unit now produces highly informative system reports with data that supports settlement discussions in conciliation and arbitration. In 2016, we resolved a total of 104,695 cases in conciliation, many within 45 days of filing. For the first half of this year, we have successfully resolved 59,292 cases in conciliation, and 14,054 cases went to consent award in arbitration.

Bulk Settlements. Resolving groups of cases is becoming more popular. Parties have shared their concern that they do not have enough staff resources to review each case to identify the issues in dispute when working on cases in volume. We overcame this obstacle by offering summaries of disputes captured in addition to summaries of their success rates. These reports not only are helpful in reviewing cases in volume but also in resolution discussions at any stage from initiation to a scheduled hearing.

Mediation Days. In light of the challenges that parties face with increased arbitration case volumes, we now offer our parties an opportunity to participate in Mediation Days. During a Mediation Day, parties come together to resolve a predetermined set of cases with the assistance of a skilled mediator. Cases are selected by case types or by a specific provider/applicant attorney. The selection criteria for cases are determined by the parties involved; however, we can recommend options based on our experience.

Please email Janet Miranda at MirandaJ@adr.org if you are interested in utilizing Mediation Days to address some of your pending volume. We are available to meet at your convenience.

NYSI Staff Member Receives the AAA President's Award for Integrity

The President's Award for Living the Values is awarded yearly to three AAA employees who most exemplify our core values of Integrity, Conflict Management and Service. These awards are especially significant because the winners are selected from nominations submitted by their AAA peers.

This year our very own Francesca Ciringione, Supervisor of Scheduling, was awarded the President's Award for Integrity. She was nominated for the award by her NYSI peers, who consider her an employee who practices the highest ethical standards while communicating with all parties openly, honestly and directly. Francesca has been working with the AAA for 14 years and ensures that the integrity of the ADR process is well preserved. She currently manages a team of 12 employees who are responsible for scheduling hearings for 151 arbitrators.



Left to right: India Johnson, Francesca Ciringione, Gilbert Camarena, Rekha Rangachari, Brandy Shourds and Tracey Frisch



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ADR Center Tech Corner

Did you know?

- **A company can add or remove additional authorized users to grant internal users access to their NY no-fault cases.** In order to do so, a user must be registered to a company account and be designated as an account administrator. All registered users have access to all their company's cases but administrator privileges allow a user to adjust the account's contact information, modify notification preferences and add or remove authorized users. There is no limit to how many registered users may be granted administrator privileges but at least one user has to possess designated administrator privileges in order to add or remove a user.
- **Additional users may be added by account administrators simply by selecting their assigned name on the top of the ADR Center homepage,** found within the header menus in-between "Help" and "Logout." Clicking on the user name redirects you into your individual profile information tab.
- **Select the tab "Your Company Information" to the direct right in order to proceed to add or remove authorized users.**
- **To add a new user, scroll down to the "Authorize User" section.** In the bottom right-hand corner of this section, you will see an option "+ Add a New User." **Click on this icon and fill out all the required user information in the modal window, then click submit.** If done correctly, you will receive a message that you have successfully registered a new user.
- **To remove a user, scroll to the user's name within the "Authorize Users" section and select the option "Remove"** within the last column to the far right of the user's name. You can also grant a user administrator privileges by checking the box "Admin" next to the user's email address.

For more information about the registration process, please contact our ADR Center Support Team at 646.663.3488 or NYSInsurance@adr.org.

DEVELOPMENTS IN NEW YORK NO-FAULT:

Recent Arbitration Awards

The intent of this section is to provide the no-fault community with a cross section of recent, well-reasoned arbitration awards that are consistent with the current New York precedent and to address commonly raised issues in the no-fault forum. The awards were objectively selected by an editorial board consisting of no-fault arbitrators with a view toward promoting discussion and analysis of relevant issues.

List of Arbitrator Abstracts

Lost Earnings

- *B.B. & State Farm Mut. Automobile Ins. Co.*, AAA Case no. 17-16-1048-0611 (4/17/17) (Heidi Obiajulu, Arb.)
- *D.D. & American Transit Ins. Co.*, AAA Case no. 17-16-1038-1766 (1/9/17) (John Hyland, Arb.)
- *J.D. & Allstate Ins. Co.*, AAA Case no. 17-16-1028-8105 (1/27/17) (Lori Ehrlich, Arb.)



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Post-EUO/Mallela Verification Requests

- *NY Rehab Pain Management & Medical Services PC a/a/o P.W. & State Farm Mut. Automobile Ins. Co.*, AAA Case no. 17-15-1016-0944 (1/23/17) (Eylan Schulman, Arb.)
- *Optimal Health Chiropractic & Acupuncture PC a/a/o J.E. & Geico Ins. Co.*, AAA Case no. 17-16-1030-2460 (1/4/17) (Dimitrios Stathopoulos, Arb.)
- *Innovative Health Chiropractic PC a/a/o M.C. & Geico Ins. Co.*, AAA Case no. 17-15-1016-3009 (5/10/16) (Ellen Weisman, Arb.)
- *L&G Acupuncture PC a/a/o P.H. & Geico Ins. Co.*, AAA Case no. 17-15-1011-1813 (11/18/15) (Michael Parson, Arb.)

Partial Response to Verification

- *Nerve Diagnostic Chiropractic PC & St. Paul Travelers Ins. Co.*, AAA Case no. 17-15-1020-2374 (11/30/16) (Jonathan Hill, Arb.)
- *Lion Medical & Geico Ins. Co.*, AAA Case no. 17-16-1041-8453 (3/20/17) (Jennifer Zeidner, Arb.)
- *Unique Medical Care, PC & Allstate Ins. Co.*, AAA Case no. 17-16-1029-8640 (4/7/17) (Sandra Adelson, Arb.)

Medical Necessity – IME Awards

- *Andrew J. Dowd, M.D. a/a/o F.A. & Allstate Ins. Co.*, AAA Case no. 17-15-1010-6947 (8/16/16) (Rhonda Barry, Arb.)
- *Brentwood Regional Chiropractic PC a/a/o L.P. & Geico Ins. Co.*, AAA Case no. 17-16-1027-0537 (11/30/16) (Rebecca Novak, Arb.)
- *Health East Medical Group a/a/o A.L. & Geico Ins. Co.*, AAA Case no. 17-15-1017-9240 (7/18/16) (Susan Haskel, Arb.)

Verification Requested Not under Applicant's Control or Possession

- *Medco Tech, Inc. a/a/o M.S. & Fiduciary Ins. Co. of America*, AAA Case no. 17-14-1004-0694 (2/4/16) (Marcelle Brandes, Arb.)
- *Stand Up MRI of Manhattan a/a/o J.F. & American Transit Ins. Co.*, AAA Case no. 17-15-1009-2459 (1/17/16) (Donna Ferrara, Arb.)
- *Zwanger & Pesiri Radiology Group, LLP a/a/o D.S. & Liberty Mut. Fire Ins. Co.*, AAA Case no. 17-15-1011-0333 (11/21/15) (Athena T. Buchanan, Arb.)

Arbitrator Abstracts

Lost Earnings

B.B. & State Farm Mutual Automobile Insurance Company, AAA Case no. 17-16-1048-0611
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(04/17/17) (Heidi Obiajulu, Arb.) Arbitrator Obiajulu addressed whether Respondent was properly reimbursed for lost earnings and whether Applicant was entitled to additional lost earnings for a subsequent period of time. Arbitrator Obiajulu reviewed the detailed forensic accounting performed by Respondent's expert and held that Applicant failed to submit any competent and credible evidence to refute the calculations established by Respondent's expert. Citing to *Glaser v. County of Orange*, 54 A.D. 3d 997, 864 N.Y.S.2d 557 (2d Dept. 2008), Arbitrator Obiajulu noted that claims for lost earnings must be ascertainable with a reasonable degree of certainty and may not be based on conjecture. With respect to the claim for subsequent lost earnings, Arbitrator Obiajulu determined that Applicant failed to establish when the claim was submitted to Respondent and therefore that portion of claim was not due and owing and was dismissed without prejudice.



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D.D. & American Transit Insurance Company, AAA Case No. 17-16-1038-1766
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(01/09/17) (John Hyland, Arb.) Arbitrator Hyland addressed Applicant's claim for lost earnings which Respondent timely denied based upon an Independent Medical Exam. Arbitrator Hyland determined that Respondent's own Independent Medical Exam report failed to establish Respondent's burden that further treatment was not medically necessary. Arbitrator Hyland was also required to address the correct computation of lost earnings, and in doing so, addressed the applicable set-offs contained within Insurance Law § 5102(b).

J.D. & Allstate Insurance Company, AAA Case No. 17-16-1028-8105
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(01/27/17) (Lori Ehrlich, Arb.) Respondent denied Applicant's claim for lost earnings based upon a forensic accounting. Respondent's expert recommended that Applicant's claim be denied because the expert did not have the opportunity to inspect and analyze records which were requested from Applicant. Arbitrator Ehrlich determined that Respondent failed to issue a valid follow-up verification request pursuant to 11 NYCRR § 65-3.6(b) and that Applicant subsequently provided Respondent with the requested verification. Applicant was seeking lost earnings in the form of lost profits. Citing to *Young v. Utica Mutual Insurance Company*, 86 A.D.2d 764, 448 N.Y.S.2d 83 (4th Dept. 1982), Arbitrator Ehrlich held that lost earnings may be measured by lost profits (including payments for substitute workers) and can be calculated based on evidence of past performance and deducting therefrom "only such business expenses as would necessarily be related to the production of that income."

Post-EUO/Mallela Verification Requests

NY Rehab Pain Management & Medical Services P.C. a/a/o P.W. & State Farm Mutual Automobile Ins. Co.,
AAA Case no. 17-15-1016-0944
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(1/23/17) (Eylan Schulman, Arb.) The arbitrator determined that a request by the respondent for a second Examination under Oath (EUO) along with the production of bank records and tax returns was unreasonable. The respondent alleged it was entitled to a follow-up EUO as well as certain financial documents concerning the applicant's practice and the Principal's personal financial activities. The arbitrator noted that while the respondent is not required to provide their objective standards to the applicant, case law mandates the respondent provide information to the court or arbitrator demonstrating a good faith basis to conduct an EUO based upon objective standards citing *Westchester Medical Center v. Government Employees Ins. Co.*, 2009 NY Slip Op. 30914 (U), 2009 WL 1136785 (Sup. Ct. Nassau Co., Daniel R. Palmieri, J., Apr. 17, 2009). After reviewing the first EUO transcript, Arbitrator Schulman noted the applicant through its Principal testified to treatment and billing practices along with leasing agreements and corporate structure maintained by the applicant. The arbitrator ruled the respondent failed to demonstrate a good faith basis to obtain the requested bank and tax records and to conduct a second EUO specifically as it pertained to a production of those records. He cited to various other arbitration awards as well as the decision by the Court of Appeals in *State Farm Mutual Automobile Ins. Co. v. Mallela*, 4 N.Y. 3d. 313 (2005), noting the respondent has failed to show good cause or behavior tantamount to fraud to justify these requests.

Optimal Health Chiropractic & Acupuncture P.C. a/a/o J.E. & Geico Ins. Co., AAA Case no. 17-16-1030-2460
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(1/4/17) (Dimitrios Stathopoulos, Arb.) The arbitrator ruled that subsequent to the completion of an Examination under Oath (EUO) taken of the applicant provider, the respondent was not entitled to post-EUO verification which included leasing agreements,



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billing company invoices, bank records and W-2's. Citing *State Farm Mutual Automobile Ins. Co. v. Mallela*, 4 N.Y. 3d. 313 (2005), Arbitrator Stathopoulos noted the court placed the burden on the insurer to demonstrate that the provider has engaged in behavior tantamount to fraud to establish good cause to justify the investigation. The respondent alleged that the EUO and their investigation led to questions whether the applicant was truly owned by the named Principal or was controlled by laypersons engaged in illegal fee-splitting; whether there was a preexisting protocol to determine treatment in a manner to maximize profit at the expense of patient care; whether laypersons were influencing manner and methods of treatment and whether the applicant was engaged in fraudulent billing. The arbitrator reviewed the EUO transcript and determined that the respondent failed to set forth a reliable factual basis to support the additional verification requests for the financial documents.

Innovative Health Chiropractic, P.C. a/a/o M.C. & Geico Ins. Co., AAA Case No. 17-15-1016-3009
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(5/10/16) (Ellen Weisman, Arb.) The arbitrator ruled that notwithstanding the objection of applicant's counsel, the respondent properly pended the claim for the production of applicant's bank statements, federal, state and city corporate tax returns and profit/loss statements/ledgers; all items requested after the Examination under Oath (EUO) of the applicant through its Principal. The applicant's position was these requests were improper as the respondent was treating the provider as an adversary and the verification sought was beyond the scope of the No-Fault Regulations. The respondent noted the affidavit submitted by their investigator along with portions of the testimony from the applicant through its Principal which raised questions as to whether the applicant had pre-determined treatment and billing protocols, was truly controlled and owned by non-physician laypersons and was engaged in unlawful billing practices. Citing *State Farm Mutual Automobile Ins. Co. v. Mallela*, 4 N.Y. 3d. 313 (2005), Arbitrator Weisman noted the court held that an insurer may withhold reimbursement for fraudulently licensed medical corporations and may look beyond the licensing documents to identify willful and material breaches of the law; however the burden is on the insurer to demonstrate that the provider has engaged in behavior tantamount to fraud to establish good cause to justify their suspicions of fraud. After reviewing the EUO testimony of the applicant and the affidavit from the respondent's investigator, the arbitrator concluded the respondent had demonstrated good cause for their verification requests as there was sufficient evidence that the applicant's behavior may be tantamount to fraud.

L&G Acupuncture P.C. a/a/o P.H. & Geico Ins. Co., AAA Case No. 17-15-1011-1813
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(11/18/15) (Michael Parson, Arb.) The arbitrator ruled that after the applicant through its Principal had appeared for two Examinations under Oath (EUO), post-verification requests for a wide variety of items including tax returns and other related records, employment records, ownership and licensing records, leasing agreements, administrative, management, consulting and billing agreements and bank records were permissible. The arbitrator noted the respondent presented an affidavit from their investigator noting the EUO and verification requests were initially sought due to concerns of fraudulent billing practices and whether laypersons were improperly influencing the manner and methods of treatment. The applicant argued that in *Brownsville Advance Medical, P.C. v. Country-Wide Ins. Co.*, 33 Misc.3d 1236(A), 941 N.Y.S.2d 536 (Table), (Dist. Ct. Nassau Co., Fred J. Hirsh, J., Dec. 10, 2011), the court determined that items sought to establish a defense under *State Farm Mutual Automobile Ins. Co. v. Mallela*, 4 N.Y. 3d. 313 (2005) are not subject to a request for further verification. Arbitrator Parson noted *Mallela* related to corporate ownership of medical facilities by laypersons in violation of specific statutory requirements, distinguishing matters such as herein where the items sought mainly concerned alleged fraudulent billing practices. Finally, the applicant cannot argue the requests were unduly burdensome as they never objected to these demands.



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Partial Response to Verification

Nerve Diagnostic Chiropractic, PC & St. Paul Travelers Ins. Co., AAA Case no. 17-15-1020-2374
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(11/30/16) (Jonathan Hill, Arb.) Arbitrator Hill held that applicant failed to fully respond to requests for additional verification, and therefore, the claim was premature. Arbitrator Hill determined that “the Applicant partially responded to the Respondent’s verification request and then stated that it was not in possession of several of the documents requested by the Respondent.” Although applicant asserted that it was in compliance because it was not in possession of documents from the referring physician, Arbitrator Hill found that “it appears there was a relationship” between the referring physician, Dr. Zarkadas and the applicant. Therefore, “Applicant could, if it wished at least attempt to obtain the documents requested by respondent based on the fact that Dr. Zarkadas not only referred the Assignor for the testing in dispute but that said testing appears to have been performed at Dr. Zarkadas’ office.” In reaching his conclusion, Arbitrator Hill reasoned that “an insurer is not required to pay or deny a claim upon receipt of a partial response to a verification request.” *Compas Medical, PC v. Travelers Ins. Co.*, 53 Misc. 3d 136(A) (App. Term. 2nd Dept. 2016).

Lion Medical & Geico Ins. Co., AAA Case no. 17-16-1041-8453
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(3/20/17) (Jennifer Zeidner, Arb.) Arbitrator Zeidner was asked to determine the propriety of a partial response to a request for additional verification. The verification requests were made following the EUO of the provider, Dr. Simon Lee. The requests sought documentation as to the corporate structure of the applicant. Applicant asserted that it properly provided some of the documentation and objected to the balance on the ground that it was improper Mallela discovery. Arbitrator Zeidner reasoned that some courts have held such requests are improper absent a showing of “special circumstances.” *Vista Surgical Supplies, Inc. v. Utica Mutual Ins. Co.*, 22 Misc.3d 142(A) (App Term 2nd Dept. 2009). Arbitrator Zeidner held that “the EUO testimony of Dr. Simon Lee together with the Affidavit of Hazel Brown, an SIU investigator employed by the Respondent, sufficiently establish a showing that Respondent had a ‘good faith basis’ for its post EUO verification requests and also that ‘special circumstances’ exists which warrant production of the sensitive financial and employment records at issue in this case.” Therefore, Arbitrator Zeidner concluded that “the verification requests were proper and that the Respondent properly denied the claim based upon Applicant’s failure to respond to its verification request within 120 days.”

Unique Medical Care, P.C. & Allstate Ins. Co., AAA Case no. 17-16-1029-8640
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(4/7/17) (Sandra Adelson, Arb.) Arbitrator Adelson was asked to determine whether a partial response for additional verification required further action by respondent. Arbitrator Adelson determined that “applicant’s counsel submitted numerous responses to respondent’s multiple verification requests which identified what was sent.” Applicant objected to the remainder of the requests. Respondent asserted that it did not receive all of the documents listed in its verification request and that the claim was premature. However, Arbitrator Adelson found that since respondent “failed to inform applicant that said additional verification responses were insufficient and/or incomplete,” the claim was not properly tolled. Arbitrator Adelson held that “there is no provision in the No-Fault regulation which grants a claimant or insurance company the right to ignore a verification request or a response to a verification request.” *Media Neurology, P.C. v. Country Wide Ins. Co.*, 21 Misc.3d 1101(A) (Civ. Ct. Kings County 2008).



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Medical Necessity—IME Awards

Andrew J. Dowd M.D. a/a/o F.A. & Allstate Insurance Company, AAA Case no. 17-15-1010-6947
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(08/16/16) (Rhonda Barry, Arb.) Arbitrator Barry determined that the Respondent made out a *prima facie* case of lack of medical necessity for surgical services based on the clinical findings articulated in an Independent Medical Examination (IME). However, the Arbitrator concluded that Applicant had established the ultimate issue of medical necessity through the submission of substantial contemporaneous medical records sufficient to rebut the IME.

Brentwood Regional Chiropractic, PC a/a/o L.P. & Geico Insurance Company, AAA Case no. 17-16-1027-0537
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(11/30/16) (Rebecca Novak, Arb.) Arbitrator Novak concluded that Respondent made out a *prima facie* case of lack of medical necessity predicated on an Independent Medical Examination and found that the Applicant's medical records in support of their position were not sufficiently persuasive to rebut Respondent's defense.

Health East Medical Group a/a/o A.L. and Geico Insurance Company, AAA Case no. 17-15-1017-9240
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(07/18/16) (Susan Haskel, Arb.) Arbitrator Haskel did not find that the clinical findings set forth in the Independent Medical Examination were sufficient to establish its *prima facie* case of lack of medical necessity for the chiropractic treatment at issue.

Verification Requested Not under Applicant's Control of Possession

Medco Tech, Inc. a/a/o M.S. & Fiduciary Ins. Co. of America, AAA Case no. 17-14-1004-0694
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(2/4/16) (Marcelle Brandes, Arb.) The claim was not denied and the insurer argued that the claim was not ripe for adjudication as the verification requested was outstanding. The verification requested included the physician's narrative report as well as a letter of medical necessity. Applicant, a medical equipment supplier, sent a letter to the insurer indicating that the information requested was not under its control or possession and that the verification should be sought directly from the prescribing doctor, Dr. Shur. Since respondent failed to request verification directly from Dr. Shur following receipt of applicant's response, the arbitrator found that verification was not outstanding and applicant's claim was granted.

Stand Up MRI of Manhattan a/a/o J.F. & American Transit Ins. Co., AAA Case no. 17-15-1009-2459
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(1/17/16) (Donna Ferrara, Arb.) The claim was denied based on the applicant's failure to respond to the insurer's verification requests within 120 calendar days from the date of issuance of the initial verification request. The verification sought included MRI films, an initial report from the referring doctor and a letter of medical necessity. Applicant provided the MRI films requested but advised that the letter of medical necessity requested was not under its control or possession. Respondent replied to applicant's response and acknowledged receipt of the MRI films but maintained that the letter of medical necessity as well as an initial report from the referring doctor remained outstanding. The arbitrator found that pursuant to relevant case law, the applicant failed to provide the requested verification as it merely stated that the documentation requested was not under its control or possession and failed to advise the insurer of the referring doctor's name or address.



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Zwanger & Pesiri Radiology Group, LLP a/a/o D.S. & Liberty Mut. Fire Ins. Co., AAA Case no. 17-15-1011-0333
<https://aaa-nynf.modria.com/loadAwardSearchFilter>

(11/21/15) (Athena T. Buchanan, Arb.) The claim was denied based on the applicant's failure to respond to the insurer's verification requests within 120 calendar days from the date of issuance of the initial verification request. The verification sought from applicant, an MRI facility, included a completed no-fault application and a letter of medical necessity from the referring doctor. The verification requests were sent to applicant and copied to the claimant and the referring doctor. The arbitrator found that the no-fault regulations permit an insurer to delay claims pending receipt of medical records from a party other than the applicant. Since the applicant failed to submit any evidence that the applicant submitted verification responses, objections or provided a reasonable justification for its failure to provide the verification requested within the 120-day period, respondent's denial was sustained.

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