



NO-FAULT CUSTOMER NEWSLETTER

Welcome to the latest edition of Minnesota No-Fault Notes.

This issue contains information about No-Fault Case Law, Rule Highlights, FAQs, Website Update, and Standards of Conduct for No-Fault Arbitrators.

News & Announcements

New Scheduling System

In 2018, the AAA will launch a new electronic scheduling system! The new system will work through AAA WebFile and Panelist eCenter®. In preparation for this new system, we highly encourage you to become familiar with these online portals. The AAA has posted "How To" guides on the Minnesota No-Fault website at www.adr.org/mnnofault. For additional assistance, you may contact us at 612-332-6545.

New Standards of Conduct for No-Fault Arbitrators

On October 16, 2017, the Minnesota Supreme Court issued an order amending the No-Fault Rules. The rules will now include the Standards of Conduct for No-Fault Arbitrators as an appendix.

The Court also amended the Standards of Conduct for No-Fault Arbitrators.

To view the order, click on [Minnesota Supreme Court Order – October 16, 2017](#).

You may also view the order on the AAA website at www.adr.org/mnnofault.

No-Fault Case Law Update

Minn. Stat. § 62Q.75, subd 3

Does an insured experience a loss that would entitle him or her to no-fault benefits, under Minn. Stat. §65B, if a health-care provider fails to submit expenses to the insurer, pursuant to Minn. Stat. § 62Q.75, subd. 3?

Western National Insurance Company vs Jon Nguyen, A17-0314 (Minn. Ct. App. September 18, 2017)

Basic economic-loss benefits, which include medical expense benefits, become payable as loss accrues. Minn. Stat. § 65B.54, subd. 1. A "loss" accrues not when the injury occurs but rather when the expenses are incurred. *Id.* An injured person "incurs medical expense as he or she receives bills for medical treatment." *Stout v. AMCO Ins. Co.*, 645 N.W.2d 108, 113 (Minn. 2002).

Nguyen argued that Minn. Stat. § 62Q.75, subd. 3, could not bar his no-fault claim because the statute only governs claims between health-care providers and health-plan companies and he is not a health-care provider.

The application of Minn. Stat. § 62Q.75, subd. 3 in a no-fault setting was one of first impression; therefore, the court concluded that in order to determine if Minn. Stat. §62Q.75, subd. 3 applies to the determination of whether an individual is entitled to no-fault benefits, it was necessary to interpret the statute. The aim of statutory interpretation is to effectuate the legislature's intent. *State*



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Farm Mut. Auto. Ins. Co v. Lennartson, 872 N.W.2d 524, 529 (Minn. 2015). If legislative intent is clear from the statute's unambiguous language, the court will interpret the statute according to its plain meaning. However, if the language is ambiguous because it is susceptible to different reasonable interpretations, the court will consider other methods of construction to ascertain the legislative intent. *Id.*

The court noted that the Minnesota Health Plan Contracting Act sets forth the requirements for contracts between health-care providers and health-plan companies. Minn. Stat. §§ 62Q.732-.751 (2016). The act also includes a prompt payment statute. Minn. Stat. §60Q.75. The general purpose of the underlying prompt-payment statute is to prescribe a designated time period for health insurers to pay valid claims in order to facilitate timely payment to health-care providers. Michael Flynn, "The Check Isn't In The Mail: The Inadequacy of State Prompt Pay Statutes," 10 DePaul J. Health Care L. 397, 402 (2007).

Minn. Stat. §62Q.75 establishes a timeline for health-care providers to "submit their charges" to health-plan companies. Should a health-care provider fail to submit charges as directed by the statute, the provider or facility shall not be reimbursed for the charge and may not collect the charge from the recipient of the service or any other payer.

The court found that although the statutory chapter did not generally apply to no-fault insurers, the more specific language of Minn. Stat. § 62Q.75, subd. 3, expressly states that it applies to no-fault insurers. The court compared this with the language of Minn. Stat. §62Q.02(a) (2016), which applies only to health plans, rather than other types of insurance issued or renewed by health plan companies. Therefore, the court concluded that Minn. Stat. §62Q.75, subd. 3, applies to health-care providers seeking reimbursement from no-fault insurers.

The court agreed with Nguyen that the statute is silent about insured claimants and unambiguously provides only that "health care providers and facilities must submit their charges to a health plan company within six months." Minn. Stat. § 62Q.75, subd. 3. However, the court found that although the statute expressly sets forth requirements only for health-care providers and not an insured, a health-care provider's failure to meet these requirements does affect whether an insured experienced a loss. The statute expressly provides, "A health care provider or facility that does not make an initial submission of charges within the six-month period shall not be reimbursed for the charge and may not collect the charge from the recipient of the service or any other payer." Minn. Stat. § 62Q.75, subd. 3.

The court determined that payment of benefits for such claims as medical expense benefits are not due if the claim is not received by the reparation obligor and may not bill the insured directly. Accordingly, if the health-care provider does not follow the statutory method for submitting bills to the insurer, that claim is not due. In addition, the health-care provider cannot seek payment from the insured if the provider fails to comply with Minn. Stat. § 62Q.75, subd. 3.

Therefore, the court concluded that since the health-care provider did not submit charges within the time period required by Minn. Stat. § 62Q.75, subd. 3, Nguyen never incurred medical expenses and thus a loss never accrued. Further, because charges presented to the arbitrator were not transmitted to Western National as required by Minn. Stat. §65B.54, subd.1, the benefits never became due. Therefore, Nguyen never suffered a loss for which he is entitled to no-fault benefits.

Rule Highlight

Rule 21. Order of Proceedings and Communication with Arbitrator

Amendments

"There shall be no direct communication between the arbitrator and the parties other than at the hearing, unless otherwise advised by the arbitration organization or by agreement of the parties and arbitrator."



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Under Rule 21, the AAA permits parties to send amendments directly to the arbitrator; however, parties are not permitted to send anything that includes a request for a decision by the arbitrator.

Hearing Materials

"Pre-hearing exhibits can be sent directly to the arbitrator, delivered in the same manner and at the same time to the opposing party. Parties are encouraged to submit any pre-hearing exhibits at least 24 hours in advance of the scheduled hearing."

"If the exhibits are not provided to opposing counsel and the arbitrator at least 24 hours before the hearing or if the exhibits contain new information and opposing counsel has not had a reasonable amount of time to review and respond to the information, the arbitrator may hold the record open until the parties have had time to review and respond to the material or reconvene the arbitration later."

Parties are encouraged to submit hearing materials at least 24 hours before the hearing, when possible, in order to avoid delays and allow the arbitrator sufficient time to prepare for the hearing. The AAA includes the arbitrator's preferred method of delivery for hearing materials on the Notice of Hearing. Please note that if a delivery preference is not listed on the original Notice, parties may use any method of delivery.

New Security at AAA Offices

As you know, U.S. Bank Plaza has undergone some new security measures that were implemented on October 1, 2017. Below are some helpful tips that can help to ensure a smooth visit to our office.

Visitor Form

- Approximately one month before your hearing, you will receive a Visitor Form by email. Please write legibly and return the form in a timely manner.
- Please include a name and email address for each individual attending the hearing. This includes the claimant, interpreter, court reporter, claims adjuster or any other individual who will be present in the AAA office.
- If you do not wish to provide your client's email address, you may provide an alternative email address, such as a member of your support staff; however, it will be your responsibility to ensure your client receives any necessary emails in relation to their visit.
- The attorney of record does not need to be included on the form. However, if a different attorney plans to appear for the hearing, that information should be included on the form.
- In the event you do not know the name of a visitor, such as an interpreter or court reporter, please include the name of their company.

Barcode

- The information provided on the Visitor Form is used to send a barcode to registered visitors. This barcode will permit the visitor to enter through a turnstile and gain access to the building. You may print the barcode or use an electronic device to scan at the turnstiles.
- If at the time of your visit, you cannot locate the barcode, you will need to go to the security desk and provide some form of identification in order to receive a barcode.



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- You will receive an email (typically the Friday prior to the week of your hearing) with the barcode. This email will be sent from meetings@ivisitor.com, not the American Arbitration Association. You may need to check your spam/junk email. If you do not receive an email or the information in the email is incorrect, please contact your case administrator directly.
- The barcode will have a start time of 8:00 AM – this pass will be good for the whole day.

Again, thank you for your cooperation and patience. If you have questions please do not hesitate to contact us at 612-332-6545.

What's on the Minnesota No-Fault Webpage?

There is a wealth of information and resources available for customers on the AAA's Minnesota No-Fault webpage. Below is a comprehensive list of the information and resources that are available. To view this information, please visit our website at www.adr.org/mnnofault.

Rules, Policies & Forms

- Minnesota No-Fault Rules
- Policy Statement of the Minnesota No-Fault Standing Committee

Filing Information

- Minnesota No-Fault Arbitration Filing Instructions
- Petition for Minnesota No-Fault Arbitration
- Representing Yourself in MN No-Fault Arbitration
- Minnesota Respondent Addresses for Parties

Links

- Link to File or Access Your Case online
- Sample Subpoenas

Case Management Information

- AAA Minnesota No-Fault Insurance Standards of Conduct
- Arbitrator Conduct Complaint Form

Reports

- Minnesota No-Fault Annual Statistics
- Customer Survey Report
- Arbitrator Recertification Report

AAA WebFile® Guide



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Case Management Tips

- Whose calendar is it? When completing your calendar form, please make sure you correctly identify yourself as either the party or arbitrator. We realize that many of you serve as both representatives and arbitrators, but it is important that we are able to ascertain to whom each calendar belongs.
- Demystifying the “cc” when uploading documents! We love that many of you are utilizing AAA Webfile and accessing your cases online! Please remember to include your cover letter when you upload a document, so that we may verify opposing counsel has been copied. This is especially important when you upload your filing materials.
- When emailing case administrators at their new email address, it is not necessary to copy their old email address.
- Please file motions separately from Rule 5(g) response.

FAQ'S

How do first time users access AAA WebFile?

To register an account, visit the American Arbitration Association's website at <https://www.adr.org/aaa/faces/register>. During the registration process, you will be asked to provide a registration code. This code can be provided to you by contacting the AAA at 612-332-6545, or by email at MinnesotaNoFaultARbInfo@adr.org.

How do I recover my username and password for AAA WebFile?

Please use the “Forgot Username” or “Forgot Password” feature located on the Log-in screen. An email will be sent to the email account listed on your profile. Please note that the link included in the email will only be valid for two hours from the time of receipt. If you do not receive an email, please contact our office at 612-332-6445.

Should I use AAA Fast File to file a new case?

No. Please file all new Minnesota No-Fault cases through your AAA WebFile account. To access your account, visit www.adr.org and click on “My Account” located on the top, right-hand side of the page.

If I upload a case document on AAA WebFile, do I need to notify the case administrator?

No. When you upload a document on AAA WebFile, the system will send a notification to the case administrator.

When can I request case access on AAA WebFile?

In order to ensure confidential information remains secure, the AAA will not approve requests for case access unless there is a notice of representation on file. If you are the filing representative, the signed petition is sufficient.

Upcoming Events

AAA Office Closings

Friday, December 22 – closes at 1:00 PM
Monday, December 25 – closed
Monday, January 1 – closed
Monday, January 15 – closed
Monday, February 19 – closed

The Minnesota AAA office wishes you a happy holiday season and we look forward to working with you in the New Year!