

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Brooklyn Medical Practice, PC
(Applicant)

- and -

Greenwich Insurance Company
(Respondent)

AAA Case No. 17-24-1368-0190
Applicant's File No. AR24-25536
Insurer's Claim File No. B950009510000201
NAIC No.

ARBITRATION AWARD

I, Rebecca Novak, 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 ["DC"]

1. Hearing(s) held on 03/11/2025
Declared closed by the arbitrator on 03/11/2025

Alek Beynenson, Esq from The Beynenson Law Firm, PC participated virtually for the Applicant

Respondent from Sedgwick Claims Mgmt. Services failed to appear for the Respondent

2. The amount claimed in the Arbitration Request, **\$718.27**, 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

Whether Applicant established entitlement to No-Fault insurance compensation for an office visit and physical therapy performed from March 15, 2024 to July 22, 2024, to treat Assignor, an 18-year-old male, subsequent to being injured in a motor vehicle accident on November 18, 2019.

Whether Applicant established a prima facie case to entitlement to No-Fault insurance compensation for the six bills at issue which lacked corresponding denials of claim.

4. Findings, Conclusions, and Basis Therefor

In this No-Fault insurance arbitration, Applicant is seeking as compensation \$718.27, which it billed for an office visit and physical therapy performed from March 15, 2024 to July 22, 2024, to treat Assignor, an 18-year-old male, subsequent to being injured in a motor vehicle accident on November 18, 2019. The six bills at issue lacked corresponding denials of claim.

Applicant appeared at the hearing via Zoom by counsel, who presented oral argument and relied upon documentary submissions. Respondent failed to appear at the time of arbitration and therefore the matter is decided based upon the submissions of both sides. I have reviewed the submissions' documents contained in the American Arbitration Association's ADR Center as of the date of the hearing, said submissions constituting the record in this case.

No evidence was presented at the hearing to support a fee schedule defense.

"[A] plaintiff demonstrates prima facie entitlement to summary judgment by submitting evidence that payment of no-fault benefits are overdue, and proof of its claim, using the statutory billing form, was mailed to and received by the defendant insurer." Viviane Etienne Medical Care, P.C. v. Country-Wide Ins. Co., 25 N.Y.3d 498, 501, 14 N.Y.S.3d 283, 286 (2015). In this case, Applicant submitted proof of mailing of the bills by way of USPS Form 3877 certificates of mailing. I find that Applicant has established its prima facie case of entitlement to No-Fault benefits.

Respondent failed to deny the claims and offered no defense for its failure to do so at the hearing. Failure to establish timely denial of the claim results in preclusion of the defenses. Presbyterian Hospital in City of New York v. Maryland Casualty Co., 90 N.Y.2d 274, 660 N.Y.S.2d 536 (1997).

In fact, no documents had been submitted in opposition to Applicant's claim. In as much as there is no submission from Respondent, Respondent failed to make out a prima facie case in support of any defense. Applicant's prima facie case of entitlement to No-Fault compensation stands.

Accordingly, the within arbitration claim is granted in the entirety.

At the hearing, Applicant agreed that interest should accrue from the date of filing, which is October 2, 2024.

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	Status
	Brooklyn Medical Practice, PC	03/15/24 - 03/20/24	\$160.93	Awarded: \$160.93
	Brooklyn Medical Practice, PC	04/15/24 - 04/22/24	\$100.92	Awarded: \$100.92
	Brooklyn Medical Practice, PC	05/14/24 - 05/20/24	\$194.57	Awarded: \$194.57
	Brooklyn Medical Practice, PC	06/17/24 - 06/20/24	\$67.28	Awarded: \$67.28
	Brooklyn Medical Practice, PC	07/16/24 - 07/22/24	\$100.92	Awarded: \$100.92
	Brooklyn Medical Practice, PC	07/18/24 - 07/18/24	\$93.65	Awarded: \$93.65
Total			\$718.27	Awarded: \$718.27

- B. The insurer shall also compute and pay the applicant interest set forth below. 10/02/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

The date set forth above is the date when the American Arbitration Association received the arbitration request. However, note the following.

At the hearing, Applicant agreed that that regardless of the language below, interest should accrue from the date of filing, which is October 2, 2024.

"Pursuant to Insurance Law §5106(a), interest accrues on overdue no-fault insurance claims at a rate of 2% per month. A claim is overdue when it is not paid within 30 days after a proper demand is made for its payment [citations omitted]." LMK Psychological Services, P.C. v. State Farm Mut. Auto. Ins. Co., 12 N.Y.3d 217, 879 N.Y.S.2d 14 (2009). In the instant case, no specific denial was ever issued, per the record. However, as noted above, Applicant did mail the bill to Respondent on a date certain. It was presumptively received five days later (next business day if the fifth day falls on a weekday or legal holiday). The date payment became overdue is the 30th date after the bill was presumptively received. Therefore, the interest accrual date shall be the date payment became overdue, using the said date calculations. The end date for the period of interest shall be the date of payment of the claim. Interest shall be calculated at the rate of two percent per month, simple, calculated on a pro rata basis using a 30-day month. See 11 NYCRR 65-3.9, 65-4.5(s)(3).

C. Attorney's Fees

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

Applicant is entitled to an attorney's fee pursuant to Insurance Law §5106(a). After calculating the sum total of the first-party (No-Fault) benefits awarded in this arbitration plus interest thereon, Respondent shall pay Applicant an attorney's fee equal to 20 percent of that sum total, subject to the following limitations: In the event the above filing date was prior to Feb. 4, 2015, the attorney's fee is subject to a minimum of \$60.00 and a maximum of \$850.00, per 11 NYCRR 65-4.6(e). In the event the above filing date was on or after Feb. 4, 2015, the attorney's fee is subject to a maximum of \$1,360.00, per 11 NYCRR 65-4.6(d). In the event the above filing date was on or after Feb. 4, 2015 and first-party (No-Fault) benefits are awarded to more than one Applicant herein, the attorney's fee shall be calculated separately for each Applicant, each Applicant's attorney fee being subject to the \$1,360.00 maximum.

- 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 Nassau

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

03/11/2025

(Dated)

Rebecca Novak

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:
88885976e8c93e03d7affbdab79517a4

Electronically Signed

Your name: Rebecca Novak
Signed on: 03/11/2025