

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

	AAA Case No.	17-24-1371-2326
Proficient Rehab Care PT PLLC (Applicant)		GM23-684886, GM23-685013, GM23-685218, GM23-685299, GM23-685392, GM23- 685487, GM23-685549, GM23-685
- and -	Applicant's File No.	
State Farm Fire & Casualty Company (Respondent)		
	Insurer's Claim File No.	32-31K2-69C
	NAIC No.	25143

ARBITRATION AWARD

I, Anne Malone, 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: EIP

1. Hearing(s) held on 05/12/2025
Declared closed by the arbitrator on 05/12/2025

John Fagan, Esq. from Law Offices of Gabriel & Moroff, P.C. participated virtually for the Applicant

Victoria Tarasova, Esq. from Goldberg, Miller and Rubin, P.C. participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$1,643.93**, 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 41 year old EIP, reported involvement in a motor vehicle accident on February 17, 2022; claimed related injury and underwent physical therapy treatment provided by the applicant from June 13, 2022 to October 3, 2022.

The applicant submitted a claim for these medical services. The respondent contends that the EIP made material misrepresentations at the time that the subject policy was issued.

Subsequently, an order was issued in Supreme Court, New York County, by Hon. Gerald Lebovits, J.S.C., Index no. 152291/23 granting a default motion in favor of the respondent.

The issue to be determined at the hearing is whether the court's order is *res judicata* as to the claim at issue.

4. Findings, Conclusions, and Basis Therefor

This decision is based upon the documents reviewed in the Modria File as well as the arguments made by counsel and/or representative at the arbitration hearing. Only the arguments presented at the hearing are preserved in this decision; all other arguments not presented at the hearing are considered waived.

Res judicata and Collateral Estoppel

Res judicata and collateral estoppel are applicable to no-fault arbitration awards and bar relitigation of the same claim or issue. A.B. Medical Services PLLC v New York Central Mutual Fire Ins. Co., 12 Misc.3d 500, 820 N.Y.S.2d 422 (Civ. Ct. Kings Co. 2006), citing Matter of Ranni, 58 N.Y.2d 715, 458 N.Y.S.2d 910 (1982.)

A determination of the *res judicata* effect of a prior arbitration proceeding is for the arbitrator in a subsequent arbitration proceeding. City School Dist. Of City of Tonawanda v. Tonawanda Educ. Ass'n, 63 N.Y.S.2d 846, 482 N.Y.S.2d 258 (1984.)

It is well settled that any judgment, even judgments entered on default have *res judicata* or collateral estoppel effect. See Eagle Surgical Supply, Inc. v. AIG Indem. Ins. Co., 40 Misc. 3d 139(A) (App. Term 2013) Further, the Appellate Term has held that "[t]he declaratory judgment is a conclusive final determination, notwithstanding that it was entered on default...." Ava Acupuncture, P.C. v NY Central Mut. Fire Ins. Co., 34 Misc. 3d 149(A) (App. Term 2012.)

The order by Justice Lebovits states in pertinent part:

ORDERED, ADJUDGED, and DECLARED that STATE

FARM FIRE AND CASUALTY COMPANY, is not required

to pay any No-Fault sums, monies, damages, awards and/or
benefits to BACK TO BROOKLYN CHIROPRACTIC, PC;
PROFICIENT REHAB CARE PT, PLLC; ES ACUPUNCTURE,
PLLC; WILLIAM L KING, MD, PC; and KINGS HIGHWAY
PHYSICIANS GROUP PLLC, and [EIP]under
the Policy arising from the alleged motor vehicle incident of
February 17, 2022, under STATE FARM FIRE AND
CASUALTY COMPANY

This order is *res judicata* to the instant matter.

Based on the foregoing, the respondent has established that the applicant is not entitled to reimbursement for the claim at issue.

Accordingly, the claim is dismissed with prejudice.

Any further issues submitted in the record are held to be moot and/or waived insofar as they were not raised at the time of this hearing. This decision is in full disposition of all claims for no-fault benefits presently before this Arbitrator

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 CT

SS :

County of Fairfield

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

06/10/2025

(Dated)

Anne Malone

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:

1eb9cb875ed5d3ead5e0eb60c7d86bf7

Electronically Signed

Your name: Anne Malone
Signed on: 06/10/2025