

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Wendell Joseph Gorum MD PC
(Applicant)

- and -

Progressive Casualty Insurance Company
(Respondent)

AAA Case No. 17-24-1375-2109

Applicant's File No. n/a

Insurer's Claim File No. 24-7470831

NAIC No. 14800

ARBITRATION AWARD

I, Nicholas Tafuri, 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 (RM)

1. Hearing(s) held on 06/12/2025
Declared closed by the arbitrator on 06/12/2025

Mark Fenelon, Esq. from Law Offices of Hillary Blumenthal LLC (Hoboken)
participated virtually for the Applicant

Ayesha Syed, Esq. from McCormack, Mattei & Holler participated virtually for the
Respondent

2. The amount claimed in the Arbitration Request, **\$1,393.01**, was NOT AMENDED at the oral hearing.
Stipulations WERE made by the parties regarding the issues to be determined.

The parties stipulated that there are no fee schedule disputes.

3. Summary of Issues in Dispute

EIP (RM), is a 38-year-old male, who was involved in a motor vehicle accident on March 14, 2024. Following the accident, EIP sought medical treatment. Health care services are provided by Applicant on dates of service: 5/18/24, 6/5/24, and 7/13/24.

Respondent contends the case should be held in abeyance pending the outcome of a declaratory judgment action. In addition, for date of service 5/18/24, Respondent claims non-receipt of Applicant's bill.

The issues to be determined at the hearing: Whether the case should be held in abeyance? Whether Applicant establishes a prima facie case for date of service 5/18/24?

4. Findings, Conclusions, and Basis Therefor

I have reviewed the documents contained in the ADR Center Record as of the date of the hearing. This Award is based upon my review of the Record and the arguments made by the representatives of the parties at the Hearing. Pursuant to 11 NYCRR 65-4 (Regulation 68-D), §65-4.5 (o) (1), an Arbitrator shall be the judge of the relevance and materiality of the evidence offered, and strict conformity to legal rules of evidence shall not be necessary. The case was decided on the submissions of the Parties as contained in the ADR Center Record maintained by the American Arbitration Association, and the oral arguments of the parties' representatives. There were no witnesses.

EIP (RM), is a 38-year-old male, who was involved in a motor vehicle accident on March 14, 2024. Following the accident, EIP sought medical treatment. Health care services are provided by Applicant on dates of service: 5/18/24, 6/5/24, and 7/13/24.

It is well settled that an Applicant establishes its prima facie showing of entitlement to No-Fault benefits by submitting evidentiary proof that the prescribed statutory billing forms had been mailed, received by the respondent and that payment of no-fault benefits were overdue. Mary Immaculate Hospital v. Allstate Insurance Company, 5 A.D.3d 742, 774 N.Y.S.2d 564 (2d Dept. 2004).

For dates of service 6/5/24 and 7/13/24, I find that Applicant establishes its prima facie case of entitlement to No-Fault compensation for its claims. For these dates of service, the burden then shifts to Respondent to establish a defense.

Whether Applicant establishes a prima facie case for date of service 5/18/24, will be discussed below.

Respondent contends that this matter should be held in abeyance pending the outcome of the declaratory judgment action that has been filed in Supreme Court, Nassau County, Index No.: 617371/24.

Respondent's defense is based on the contention that it "...is under no obligation to reimburse [Applicant] for services purportedly rendered and billed to Progressive...based upon ...failure to satisfy conditions precedent to coverage or to verify their claims as required by law...".

With respect to Respondent's request that this arbitration should be held in abeyance, there is no indication a stay has been issued. Respondent's submission fails to contain any Court orders that have been issued as a result of the declaratory judgment action. Therefore, I find that nothing bars this case from proceeding. The mere "pendency" of that action is not a defense, and does not preclude a determination of Applicant's claims in this arbitration.

For dates of service 6/5/24 and 7/13/24, no further issues were raised at the hearing, and the only issue raised in Respondent's brief is the contention that this arbitration be stayed.

Significantly, no documentary evidence is submitted by Respondent to support its stated defense.

Based on the foregoing, Applicant's reimbursement claims, for dates of service 6/5/24 and 7/13/24, are granted.

Date of service: 5/18/24

Respondent claims non-receipt of Applicant's bill.

As noted above, an Applicant establishes a prima facie case by submitting evidentiary proof that the subject bill was properly mailed to the insurer.

Applicant's submission fails to contain proof of mailing of the bill for date of service 5/18/24. Therefore, Applicant has failed to establish a prima facie case of entitlement to No-Fault benefits for this claim. Based on the submissions of the parties, their arguments, and the weight of the evidence, I find in favor of Respondent.

Since a denial has not been issued by Respondent, Applicant's reimbursement claim, for date of service 5/18/24, is dismissed without prejudice.

Based on the foregoing, for dates of service 6/5/24 and 7/13/24, Applicant is awarded the amount of \$982.93.

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 applicant is AWARDED the following:

A.

Medical		From/To	Claim Amount	Status
	Wendell Joseph Gorum MD PC	07/13/24 - 07/13/24	\$324.69	Awarded: \$324.69
	Wendell Joseph Gorum MD PC	05/18/24 - 05/18/24	\$410.08	Dismissed without prejudice
	Wendell Joseph	06/05/24 -		Awarded:

	Gorum MD PC	06/05/24	\$658.24	\$658.24
Total			\$1,393.01	Awarded: \$982.93

- B. The insurer shall also compute and pay the applicant interest set forth below. 11/20/2024 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Respondent shall compute and pay to Applicant the amount of interest from the filing date of the Request for Arbitration, at a rate of 2% per month, simple interest (i.e. not compounded) using a 30-day month and ending with the date of payment of the award, subject to the provisions of 11 NYCRR 65-3.9(c).

C. Attorney's Fees

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

For cases filed on or after February 4, 2015, the attorney's fee shall be calculated as follows: 20% of the amount of first-party benefits awarded, plus interest thereon, subject to no minimum fee, and a maximum fee of \$1,360.00. 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 Putnam

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

06/13/2025
(Dated)

Nicholas Tafuri

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:
d3664337b445bedaa2cdd948402b43b6

Electronically Signed

Your name: Nicholas Tafuri
Signed on: 06/13/2025