

American Arbitration Association
New York No-Fault Arbitration Tribunal

In the Matter of the Arbitration between:

Elite Rx Inc.
(Applicant)

- and -

American Transit Insurance Company
(Respondent)

AAA Case No. 17-25-1399-5561

Applicant's File No. LIPâ47045

Insurer's Claim File No. 1153825â01

NAIC No. 16616

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 04/13/2026
Declared closed by the arbitrator on 04/13/2026

Lee-Ann Trupia, Esq. from Law Offices of Ilya E Parnas P.C. participated virtually for the Applicant

Jeffrey Siegel, Esq. from American Transit Insurance Company participated virtually for the Respondent

2. The amount claimed in the Arbitration Request, **\$2,824.20**, was AMENDED and permitted by the arbitrator at the oral hearing.

The amount claimed was amended by the applicant to \$2,269.99 to conform to the appropriate fee schedule.

Stipulations WERE NOT made by the parties regarding the issues to be determined.

3. Summary of Issues in Dispute

The 37 year old assignor reported involvement in a motor vehicle accident on August 24, 2024; claimed related injury and received Naproxen and Cyclobenzaprine prescription medication provided by the applicant on February 25, 2025.

The applicant submitted a claim for this oral prescription medication, payment of which was denied by the respondent on the grounds that there was no coverage for this claim/loss because the assignor's injuries were not causally related to the subject accident.

The issues to be determined at the hearing are:

Whether the assignor's injuries arose out of the use or operation of a motor vehicle.

Whether the respondent established that its denial was proper.

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.

The assignor reported involvement in a motor vehicle accident on August 24, 2024. The claim at issue was denied on the grounds that the injured party did not meet the definition of eligible injured person under the policy, because she was not injured as a result of the use or operation of a motor vehicle.

The claim was timely denied by respondent based on the testimony of examination under oath of the assignor.

The denial states in pertinent part:

THE CLAIM FOR BENEFITS ARE DENIED BASED

ON A LACK OF CAUSATION AS OPINION BASED

ON THE BIOMECHANICAL SCIENCE EXPERT

REPORT OF ZACHARY MERRILL, P.H.D DATED

03/03/2025

Entire claim is denied based on examination under oath

conducted 02/14/2025 American Transit is asserting a

lack of coverage, as it has established the "fact or

founded belief" that the claimant's treated condition was unrelated to the motor vehicle accident.

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. See Mary Immaculate Hospital v. Allstate Insurance Company, 5 A.D. 3d 742, 774 N.Y.S.2d 564 (2d Dept. 2004.)

I have reviewed the transcript of the assignor's testimony at the EUO and find that it does not establish that her treated condition was unrelated to the subject accident.

In addition, the report by Zachary Merrill, PhD. did not establish that the assignor did not sustain any injuries as a result of the subject accident, based on incorrect information regarding the actual happening of the incident including the fact that the assignor was not in the sitting in the vehicle but was exiting the vehicle at the time of accident.

Based on the foregoing, the respondent failed to establish that the treatment provided to the assignor was not related to injuries sustained as a result of the subject accident.

Accordingly, the applicant is awarded \$2,269.99 in disposition of this claim.

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 applicant is AWARDED the following:

A.

Medical		From/To	Claim Amount	Amount Amended	Status
	Elite Rx Inc.	02/25/25 - 02/25/25	\$2,824.20	\$2,269.99	Awarded: \$2,269.99
Total			\$2,824.20		Awarded: \$2,269.99

B. The insurer shall also compute and pay the applicant interest set forth below. 05/09/2025 is the date that interest shall accrue from. This is a relevant date only to the extent set forth below.

Applicant is awarded interest pursuant to the no-fault regulations. See generally, 11 NYCRR §65-3.9. Interest shall be calculated "at a rate of two percent per month, calculated on a *pro rata* basis using a 30 day month." See 11 NYCRR §64-3.9(a). A claim becomes overdue when it is not paid within 30 days after a proper demand is made for its payment. However, the regulations toll the accrual of interest when an applicant "does not request arbitration or institute a lawsuit within 30 days after the receipt of a denial of claim form or payment of benefits" calculated pursuant to Insurance Department regulations. Where a claim is untimely denied, or not denied or paid, interest shall accrue as of the 30th day following the date the claim is presented by the claimant to the insurer for payment. Where a claim is timely denied, interest shall accrue as of the date an action is commenced or an arbitration requested, unless an action is commenced or an arbitration requested within 30 days after receipt of the denial, in which event interest shall begin to accrue as of the date the denial is received by the claimant. See, 11 NYCRR §65-3.9(c.) The Superintendent and the New York Court of Appeals has interpreted this provision to apply regardless of whether the particular denial was timely. LMK Psychological Servs. P.C. v. State Farm Mut. Auto. Ins. Co., 12 NY3d 217 (2009.)

C. Attorney's Fees

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

Applicant is awarded statutory attorney's fees pursuant to the no fault regulations. For cases filed 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 of \$1,360.00. See 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 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.

04/28/2026
(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:
9f1d3e9efb43598ff669c1e89004ea24

Electronically Signed

Your name: Anne Malone
Signed on: 04/28/2026