



## NY No-Fault Frequently Asked Questions

### When can I file a request for No-Fault arbitration?

If you are the injured party of an automobile accident or the medical service provider providing treatment to the injured party, you can request arbitration when a claim or a portion of a claim for New York No-Fault claim is denied by the insurer. A request for arbitration can also be made when an insurer's response to a claim is overdue.

The arbitration system is intended to be faster, less expensive and simpler than filing in court.

### What are the forms with which to file a request for arbitration?

There are two forms you can use to request arbitration:

You can complete the second and third page of the Denial of Claim on Form NF-10 that you received from the No-Fault Insurance Company.

Or, you can complete [Form AR, The Request for New York No-Fault Arbitration](#). This form can be mailed or faxed to you by calling (917) 438-1500, or you can use the form provided on this Website, in the Forms section. You can fill out the form on your computer screen and then print it out, to be sent to AAA.

Be sure to fill out the form completely and to include all your supporting documents. Your request must also include payment of a \$40 filing fee.

### What should I include with my arbitration request?

All information requested on the Form AR or the NF-10 is vital to the processing of the case. As a result, we will accept only those cases in which the Form AR or NF-10 is filled out completely.

All your evidence and written arguments, including any document supporting your contention, such as medical bills, police report, and affidavits must be submitted with your arbitration request. Medical service providers requesting arbitration must include an assignment of benefits signed by the patient. (Please see assignment of benefits section below.)

The arbitration request must be accompanied by a check or money order for \$40 payable to the American Arbitration Association. This filing fee will be reimbursed to the applicant directly by the insurer, if the applicant prevails in whole or in part.



### **How do I file a request for arbitration?**

You may file your request for arbitration either by mail, email or electronically through our online platform, ADR Center.

A party filing a request for arbitration must also forward a copy of the filing to the insurance company, at the time of filing.

Filing a case electronically by email requires that you first register with the AAA. Activation of a bulk filing payment account is also required for all electronic filing options.

Email filings must contain 1 attachment with all supporting documents included. It's important to remember when filing a case the filer must also serve the carrier with a copy of the arbitration request, at the time of filing. To register, please contact our Customer Service department at 917 438-1660 or by email at [nysinsurance@adr.org](mailto:nysinsurance@adr.org).

### **What is the role of the American Arbitration Association?**

The American Arbitration Association (AAA) administers the program for arbitration of No-Fault disputes in New York, on behalf of the New York State Department of Financial Services. The program serves consumers, health service providers, and insurance carriers in New York by providing a forum for the speedy resolution of disputes concerning claims for benefits under No-Fault automobile insurance.

The AAA has administered No-Fault programs in New York for over 30 years. The AAA is a not-for-profit, public service organization committed to the resolution of disputes through arbitration, mediation, conciliation and other voluntary procedures. The AAA handles administration of all phases of the conciliation and arbitration process in New York.

### **Who are the arbitrators?**

The New York State Superintendent of Insurance appoints all arbitrators, after nomination by an advisory committee and after a determination that the arbitrator candidates are well qualified and will serve in an unbiased manner. The arbitrators are all attorneys who have experience in the field of insurance disputes. They have each been reviewed, interviewed, and nominated by an advisory committee that consists of attorneys for applicants for benefits, and representatives of insurance companies. All the No-Fault arbitrators serve full-time in that capacity.

### **What is "Conciliation?"**

Pursuant to the system established by the New York Insurance Department in its regulations, a request for arbitration goes through two phases. The first phase is a conciliation phase, in which each party submits all their evidence. After receiving notice from the AAA of a new request for arbitration and a copy of the papers from the applicant, the insurance company has 30 days to present its own evidence and its basis for denial of the claim.

Once the documents have been received, there is a conciliation period of up to 90 days, during which a conciliator reviews the evidence and discusses with the parties - by email, fax, letter or separate phone conversations—whether the



case might be settled at this early stage. The conciliator is experienced in the handling of disputed insurance claims and can recommend to the parties what might be the likely results of the claim when it reaches arbitration. The conciliation process is not a numbers game of splitting the difference. Conciliation is addressed to the merits of the evidence and the claim.

Conciliation has proven an economical means to reach early resolutions of many disputes. In the year 2008, the AAA staff conciliated settlements in over 19,000 cases. The conciliation rate was 50%. Moreover, although conciliation could last 90 days, it is usually concluded much faster. The average timeframe to settlement was less than 45 days from filing date.

If a case cannot be settled at this phase, it is referred for arbitration.

### **Can an injured person who is filing a claim directly receive expedited handling?**

Arbitration requests filed directly by the injured person—including claims for lost earnings—are given expedited, priority handling.

Claims brought directly by the injured person constituted only 2.5% of the filings in 2008. The other 97.5% of the filings were made by health service providers who obtained an assignment of benefits from the injured person in payment for their services. Since the case of the injured person who files directly for arbitration does not involve an assignment of benefits, it is often called a “non-assignee case.”

The injured person’s “non-assignee case” goes through a conciliation period like other cases, with particular attention to whether it might be settled at that early phase. If it is not settled, the case is then referred for arbitration and promptly placed on an arbitrator’s calendar with sufficient advance notice of hearing to the parties. The injured persons’ cases that had their first hearing in the first half of 2009 had an average age of less than three months from filing date to hearing date. It is sometimes necessary for the arbitrator to continue a case beyond its first hearing date to obtain all necessary information to reach a fair result.

### **What is an assignment of benefits?**

The New York State No-Fault system provides for certain benefits to qualified persons injured in automobile accidents. An assignment of benefits form, signed by the patient, transfers the benefits and responsibilities that are associated with the No-Fault claim from the injured person to the health service provider. Two of the most important benefits are the right to receive payment directly from the insurer and the right to proceed with arbitration in the event the insurer denies the claim.

*Example:* An injured party visits a doctor to receive treatment for injuries sustained in an automobile accident. The doctor has the injured person sign an assignment of benefits and treats the person. The doctor submits the bill for services rendered to the injured party along with the assignment of benefits form to the insurance carrier with a request for payment. If the No-Fault carrier denies the doctor’s request for payment, the doctor may file a request for No-Fault arbitration and must include the properly signed assignment of benefits with that request.



### **How do I execute a valid assignment of benefits?**

A valid assignment of benefits transfers all rights, privileges and remedies from the injured person who is entitled to New York No-Fault benefits, to the medical service provider.

The assignment of benefits form must be signed by the injured party (or a parent or guardian if the injured party is a minor). Photocopied signatures are acceptable at the initiation of the arbitration process; however, the original assignment of benefits should be available to the applicant for presentation to the carrier if requested.

The assignment of benefits form must also include the original signature or a copy of the original signature (stamped signatures are not acceptable) of the applicant health service provider.

### **What is special expedited arbitration?**

If the insurer denied your claim on the grounds that the notice of the accident to the insurer was made late, beyond the required timeframe for such notice, you may qualify for special expedited arbitration on the issue of whether there is a reasonable explanation that will excuse the lateness.

Also, if your dispute includes an issue as to which insurance company is responsible to review and pay No-Fault benefits, you may qualify for special expedited arbitration on the issue of which insurer is responsible.

A case qualifying for special expedited arbitration will be scheduled within 30 days from the day it is referred to arbitration.

### **Do I need a lawyer to request a New York No-Fault arbitration?**

No. The arbitration program is designed to be an easy to use system where parties can resolve their disputes outside the complex environment of the court system.

However, we suggest that parties who are not familiar with New York No-Fault rules and regulations retain an attorney.

If you require assistance in hiring an attorney, please contact the New York State Bar Association by calling (800) 342-3661 or [click here](#) to visit their website.

### **Is there a deadline for requesting New York No-Fault arbitration?**

The usual deadline for requesting New York No-Fault arbitration is six years from the date of the denial of claim, but there are exceptions. Only the arbitrator will determine disputes concerning time limitations for filing arbitration.



### **Can I request arbitration against more than one insurance company?**

Yes. If the issue pertaining to your dispute involves multiple insurance companies, you may include more than one insurance company on your request.

Note the availability of special expedited arbitration, above, for such disputes.

### **Are the parties allowed to communicate with each other after a dispute has been filed for arbitration?**

Yes. Once an arbitration request is accepted, it is referred to a conciliator who will act as the liaison for the parties in dispute. Communication is not limited to the conciliator. We encourage parties to engage in dialogue in the interest of settling the dispute before and during the arbitration process.

The assigned conciliator is available to assist parties in resolving their disputes by phone, email and mail communication.

If a dispute is resolved between the parties, the terms of the settlement must be submitted to the assigned conciliator. Always reference the AAA case number when corresponding with the conciliator.

### **What are “linking” and “batching” of cases?**

Linking and batching are the fundamental principles for creating each arbitrator’s calendar of cases. This manner of scheduling is very often a convenience for the parties too. They can appear at one arbitrator’s office for several of their cases on the same day. Linking and batching are implemented through the AAA’s technological processes, drawing from the computerized database of information about pending cases.

Linking is an important fact-finding tool that brings together cases that have elements of proof in common, to be heard together. Linking brings together, when available at the time of scheduling cases, those cases that arise out of the same vehicle in the same accident, for hearings before the same arbitrator on the same day. For example, a neurologist’s claim and a physical therapist’s claim for treating the same injured person can be linked for hearing. Or, the bills for two different persons who were each injured in the same automobile in the same accident can be linked for hearing. These cases will often have elements of proof in common. Cases are scheduled as soon as they become available for hearings, immediately after the conciliation process. Therefore, cases arising out of the same vehicle and accident may be scheduled on different dates before different arbitrators when the cases are filed at different times. However, any awards in linked cases arising out of the same vehicle and accident are identified and available online to the arbitrator and the parties, to consolidate the common information and the prior findings.

Batching brings together cases involving the same applicant attorney and same insurance carrier, but different injured persons from different accidents, for hearings before the same arbitrator on the same day. Such cases may involve common elements of proof. Their scheduling for the same arbitrator is also a convenience for the parties.



### **What is the role of the case manager?**

The case manager administers a caseload in accordance with the rules and procedures of the American Arbitration Association intended to meet the state No-fault regulations and policies of the New York State Insurance Department. The case manager serves as a liaison between the parties, their representatives and the arbitrators. To avoid the appearance of partiality, only the case manager is authorized to communicate directly with all parties, including the arbitrator, in a dispute.

Case managers now work in teams. A notice of hearing will contain the phone number for the team assigned to that region, and any member of the team may assist you.

### **How do I go about adjourning a hearing?**

Both claimant and respondent can request adjournments. The case manager team may receive requests for adjournments via e-mail, fax, or postal correspondence. Before the case manager can communicate to the arbitrator the adjournment request, the requesting party must give a reason for the adjournment request and must also advise the adversary of the adjournment request. The adversary may take a position consenting or objecting to the arbitration request. The arbitrator will make a determination on the request.

### **What happens once I attend the hearing and the Arbitrator declares the hearing closed?**

When the arbitrator declares the hearing closed, nothing more can be submitted for the case. The Arbitrator has 30 days from the closing date to render and send in the award.

### **What is a technical correction?**

An arbitrator may make a technical correction to an award, upon the arbitrator's own motion or upon the request of a party. Technical corrections include corrections of inconsistencies between the written text and form responses, incorrectly checked or unchecked boxes on award forms, arithmetic errors and typographical errors.

A party must request a technical correction within the time limit of thirty (30) days after receipt of the award and must send a copy of the request to the opposing party, which then has ten (10) days in which to file its position on the request. The arbitrator makes the determination and, if granting the request, may issue a technical correction of award.

The request for a technical correction does not toll the timeframe within which an appeal must be filed, nor within which interest accrues or any other regulatory timeframe.



### How do I file an appeal of a No-Fault Arbitrator's award?

- (1) If grounds exist, any party to arbitration may request that the arbitration award be vacated or modified by a master arbitrator.
- (2) The request for review by a master arbitrator shall be in writing and shall be mailed or delivered to the American Arbitration Association office at 120 Broadway, 11th Floor, New York, NY 10271:
  - (i) Within fifteen calendar days of the mailing of an award rendered in an AAA expedited arbitration, or
  - (ii) Within 21 calendar days of the mailing of any other appealable award.
- (3) The request shall include a copy of the award in issue and shall state the nature of the dispute and the grounds for review.
  - (i) A request by an applicant for benefits shall be accompanied by a filing fee of \$75, payable by check or money order to the American Arbitration Association.
  - (ii) Upon the filing of a demand for arbitration by an applicant, the AAA shall bill the respondent insurer the sum of two hundred fifty \$250, which shall be payable by the insurer within thirty days after billing.
  - (iii) A request by an insurer shall be accompanied by a filing fee of \$325, payable by check or money order to the American Arbitration Association.
- (4) The applicant for master arbitration shall send, by certified mail, a copy of the filing papers to the opposing party at the same time that it submits the request for review to the AAA.

### What do I do if I have received a favorable decision, however I have not received payment from the carrier?

The Insurance Department wants to make sure that applicants and their attorneys are aware of the actions that the Department takes when insurers and self-insurers, as a result of any settlement during the arbitration process, fail to make payment within 30 days of the date the agreement was mailed to the parties. Such a failure is a violation of N.Y. Insurance Law, Section 5106. If a conciliation agreement, settlement letter or arbitration award is not paid in accordance with the above referenced time frame, an applicant or applicant's attorney may submit an enforcement request to the Insurance Department's Property Bureau.

Requests for enforcement should be directed to:

Hyman Silberstein, Senior Insurance Examiner  
NYS Department of Financial Services  
25 Beaver Street  
New York, NY 10004  
Phone: 212-480-5652 or email: [Hyman.Silberstein@DFS.NY.GOV](mailto:Hyman.Silberstein@DFS.NY.GOV)



### **What is Award Search?**

A library of redacted No-Fault awards is available online for any party that is interested in reviewing prior awards issued by the arbitrator panel. The No-Fault awards in this online library are searchable by arbitrator, by topic, by phrases of text, by date range and in other ways. The Award Search enables attorneys to conduct their own research on such questions as how a particular arbitrator has ruled previously on an issue that the attorneys may argue in their own upcoming cases before that arbitrator. It also enables attorneys to research the latest rulings by other arbitrators on an issue. The Award Search feature can be found on our ADR Center platform [aaa-nynf.modria.com](http://aaa-nynf.modria.com).

### **What does it mean for an Arbitrator to be “Paperless”?**

The arbitrators no longer receive paper documents or correspondence from the AAA or their respective case managers. The arbitrators access and review parties’ documents online using our ADR Center platform.

Parties may continue to rely upon paper documents if they so choose, but we encourage parties to also operate in a paperless manner utilizing our technology platform, ADR Center.