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## New York's No-Fault Automobile Liability Insurance Dispute Process

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## NEW YORK'S NO-FAULT AUTOMOBILE LIABILITY INSURANCE DISPUTE PROCESS

*Brandon Hamroff*

No-fault automobile liability insurance coverage, also known as personal injury protection insurance (“PIP Insurance”), provides coverage for personal injuries arising from accidents involving the insured driver.<sup>1</sup> PIP Insurance provides coverage to the insured driver, passenger, or pedestrians injured in the accident, regardless of whether the insured driver is at fault.<sup>2</sup> As required under New York State’s motor vehicle insurance law, New York Insurance Law Article 51, the required coverage provides payments for the basic economic loss for each person injured.<sup>3</sup> Basic economic loss is defined as up to \$50,000 for medical bills, lost earnings, and related expenses, as a result of the accident.<sup>4</sup> As part of New York Insurance Law Article 51, all disputes between insurance carriers and insureds, injured parties, or medical providers to those injured in an accident are to be settled through an arbitration process.<sup>5</sup> The rules and procedures for the arbitration process are promulgated by the New York State Superintendent of Insurance.<sup>6</sup> The arbitration proceeding is administered by the American Arbitration Association.<sup>7</sup>

No-fault insurance coverage filings have become more prevalent in New York State.<sup>8</sup> From 2014 to 2019, claim filings increased from 189,462 to 334,597, an increase of 77%.<sup>9</sup> In 2019, 163,876 cases were resolved via arbitration.<sup>10</sup> The average duration of filing time to award received through arbitration proceedings was fifteen months.<sup>11</sup>

The arbitration mechanism provides a specialized forum for disputes related to no-fault insurance coverage. As stated earlier, the process is only available for no-fault claim disputes between insurers and those seeking payment through the policy.<sup>12</sup> The process utilizes arbitrators who are attorneys with at least five years of experience and are deemed qualified to review no-fault insurance disputes.<sup>13</sup> This assures that the process is fair, as all the arbitrators available in the pool are experts in auto insurance law.<sup>14</sup> This is unlike New York State Supreme Court judges,

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<sup>1</sup> *Shopping for Auto Insurance*, N.Y. DEP’T FIN. SERV., [https://www.dfs.ny.gov/consumers/auto\\_insurance/minimum\\_auto\\_insurance\\_requirements](https://www.dfs.ny.gov/consumers/auto_insurance/minimum_auto_insurance_requirements) [<https://perma.cc/B5RJ-K394>] (last visited Oct. 8, 2021).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> N.Y. Ins. Law § 5102 (McKinney 2005).

<sup>5</sup> N.Y. Ins. Law § 5106 (McKinney 2005).

<sup>6</sup> *Id.*

<sup>7</sup> *NY No-Fault Frequently Asked Questions*, AM. ARB. ASS’N, at 1, [http://go.adr.org/rs/294-SFS-516/images/AAA\\_NY\\_NoFault\\_FAQs.pdf](http://go.adr.org/rs/294-SFS-516/images/AAA_NY_NoFault_FAQs.pdf) [<https://perma.cc/2TEN-R5VJ>] (last visited Oct. 31, 2021).

<sup>8</sup> *AAA New York State No-Fault and SUM Programs 2019 Key Statistics*, AM. ARB. ASS’N, at 1, [https://nysinsurance.adr.org/sites/default/files/document\\_repository/2019\\_NYNF\\_Key\\_Case\\_Stats.pdf](https://nysinsurance.adr.org/sites/default/files/document_repository/2019_NYNF_Key_Case_Stats.pdf) [<https://perma.cc/2GGA-45CJ>] (last visited Oct. 31, 2021).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 2.

<sup>11</sup> *Id.*

<sup>12</sup> N.Y. Ins. Law § 5106 (McKinney 2005).

<sup>13</sup> *Rules for Arbitration of No-Fault Disputes in the State of New York*, AM. ARB. ASS’N (Aug. 16, 2013), [https://nysinsurance.adr.org/sites/default/files/document\\_repository/Rules\\_for\\_Arbitration\\_of\\_No-Fault\\_Disputes\\_in\\_the\\_State\\_of\\_NY.pdf](https://nysinsurance.adr.org/sites/default/files/document_repository/Rules_for_Arbitration_of_No-Fault_Disputes_in_the_State_of_NY.pdf) [<https://perma.cc/4UZ4-GEMB>].

<sup>14</sup> *Id.*

who hear cases on a diverse range of matters.<sup>15</sup> Only 1,723 of the 130,360 New York Article 51 proceedings resolved in 2019 had their results appealed.<sup>16</sup> Of those, 72% of decisions were affirmed.<sup>17</sup> The small number of appeals signals that insurance carriers and interested parties, such as the injured party or healthcare provider, believe that the results of their arbitration proceedings are fair. Similarly, the small number of decision reversals signals that the arbitrators in the American Arbitrator Association pool for no-fault liability insurance matters have the expertise and understanding of New York insurance law to apply it correctly in the matters presented to them.<sup>18</sup> The arbitration mechanism also provides a forum separate from the New York State courts, which allows the process to be faster and more convenient, as the New York State courts have a backlog of filings as a result of the COVID-19 pandemic.<sup>19</sup>

Since the arbitration mechanism under New York Insurance Law Article 51 provides insurers and those seeking payment under the insurance policy a fair and convenient forum to resolve issues arising under the insurance policy, it is an efficient use of alternative dispute resolution for all parties involved.

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<sup>15</sup> *The Practice of Law in New York State*, N.Y. STATE BAR ASS'N, at 6 (Sept. 2015), <https://nysba.org/app/uploads/2020/03/The-Practice-of-Law-in-New-York-State.pdf> [<https://perma.cc/NH86-H4VF>] (explaining that New York Supreme Courts can hear virtually any case brought before it).

<sup>16</sup> AM. ARB. ASS'N, *supra* note 8, at 4.

<sup>17</sup> *Id.*

<sup>18</sup> AM. ARB. ASS'N, *supra* note 13, at 3.

<sup>19</sup> Adam Calvert & Andrew Thebaud, *Covid-19's Impact on the Future of Civil Litigation in New York*, N.Y. L. J. (Feb. 25, 2021, 11:15 AM), <https://www.law.com/newyorklawjournal/2021/02/25/covid-19s-impact-on-the-future-of-civil-litigation-in-new-york/> [<https://perma.cc/969C-94ZF>].