

## SYSTEM DESCRIPTION

### Kaiser Permanente Member Arbitrations Administered By The Office of the Independent Administrator

#### I. Introduction

The Office of the Independent Administrator is the neutral entity that administers arbitrations brought pursuant to Kaiser Foundation Health Plan, Inc.'s contracts with its members. The system is designed to provide Health Plan members with a fair, speedy, cost effective, and confidential means of resolving disputes. The system is governed by a set of rules, "Rules for Kaiser Permanente Member Arbitrations." The rules are available from Kaiser Permanente at 1-800-464-4000 or from the Office of the Independent Administrator at 213-637-9847 or [www.oia-kaiserarb.com](http://www.oia-kaiserarb.com).

#### II. The System's Timing Requirements

This system has been designed so that most cases are resolved within eighteen months after the Independent Administrator receives a claimant's demand for arbitration and \$150.00 filing fee or has been granted a waiver of this fee.<sup>1</sup> Under the system's rules, the Health Plan forwards demands and any filing fee to the Independent Administrator within ten days of receiving them. After the Independent Administrator has the demand and fee or fee waiver, key events take place very quickly. Within **three days**, the Independent Administrator sends the parties a list of arbitrators to choose from. Parties then have **twenty days** to return their responses to that list. Once appointed, the neutral arbitrator holds an arbitration management conference within **sixty days**. At that conference, the neutral arbitrator and the parties set deadlines for remaining events, including the mandatory settlement meeting and the arbitration hearing date. Those deadlines must ensure that the case is resolved within **eighteen months** of the date the Independent Administrator received notice of the demand and the filing fee. Our rules contain more information about these important time deadlines, and provide a detailed description of each event that must take place within the eighteen month schedule.

#### III. Other Timing Options

Not all cases will fit within the eighteen month time frame described above. The system has expedited procedures for use when a case needs to be resolved faster than eighteen months. Rules 33-36 explain how to request expedited procedures. Some cases may be designated complex or extraordinary, and need more time than eighteen months to be resolved. Rule 24b and 24c provide information about those types of cases. Parties can acquire the forms needed to obtain these designations from the Independent Administrator or our website. Postponements may also be available under some circumstances. Rule 21 and Rule 28 contain information about postponements.

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<sup>1</sup>The last section of this memo discusses how Claimants may request waivers of filing fees.

#### **IV. Panel of Neutral Arbitrators**

The Office of the Independent Administrator maintains a panel of neutral arbitrators available to hear cases in this system. Within three days of receiving a demand for arbitration and the required filing fee or waiver, the Independent Administrator will send each party a randomly generated list of twelve arbitrators from its panel. The Independent Administrator will provide copies of the arbitrators' application materials, including names of references, and copies of the arbitrators' previous Kaiser decisions, if available. Parties then have twenty days to strike four names from the list and rank the remaining eight arbitrators in order of preference. The Independent Administrator then selects an arbitrator to serve on the case using the parties' selections. Rule 16 and Rules 18-19 provide more information about selecting an arbitrator. This system allows parties to jointly select any neutral arbitrator of their choosing, -- subject to the restrictions of California's new Ethics Standards for Neutral Arbitrators in Contractual Arbitration -- as long as that arbitrator agrees to follow the system's Rules. See Rule 17 for more information about joint selection of a neutral arbitrator.

#### **V. Payment of the \$150 Filing Fee and/or the Neutral Arbitrator's Fees and Expenses**

Under California law, the fees and expenses of the neutral arbitrator are divided between the claimants and the respondents. The Rules, however, provide ways for the claimants to shift that obligation, as well as the requirement that they pay the \$150 filing fee. These methods are discussed below.

- A. **Waiver of the \$150 Filing Fee:** Claimants whose gross monthly income is less than 300 percent of the national poverty guidelines can have the filing fee waived. To obtain the waiver, claimants must submit a form to the OIA within 75 days of the OIA receiving the demand for arbitration. It does not affect the neutral arbitrator's fees. See Rule 12.
- B. **Waiver of the \$150 Filing Fee and the Neutral Arbitrator's Fees and Expenses:** Claimants who submit a form that contains information about their income and expenses may receive this waiver if they meet the qualifications. This form is given to the respondents, who may object. If granted, it can waive both the filing fee and the neutral arbitrator's fees and expenses. See Rule 13.
- C. **Waiver of the Neutral Arbitrator's Fees and Expenses:** Claimants who sign a form in which they agree not to object if Kaiser pays all the neutral arbitrator's fees and expenses, and a form in which they agree not to use a party arbitrator<sup>2</sup>, do not have to pay the neutral arbitrator's fees. No financial information is required. Claimants should send a copy of the forms to the OIA, Kaiser's attorney, and the neutral arbitrator. See Rule 15.

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<sup>2</sup>Under California law, claimants who seek less than \$200,000 have their claims heard by a single neutral arbitrator. Therefore, these claimants do not have to sign the second waiver. Claimants who waive their right to a party arbitrator can seek damages that are greater than \$200,000. While it has never happened, if claimants were to waive a party arbitrator and Kaiser failed to also do so, claimants could proceed with a party arbitrator.