

## 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 the arbitration management 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.

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

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.

#### **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. Explanation of Waivers**

Under California law, the fees and expenses of the neutral arbitrator are divided between the claimants and the respondents. OIA Rules provide ways for claimants to shift that obligation to Kaiser. The Rules also allow claimants to be excused from paying the \$150 filing fee if they cannot afford it.

##### **A. Waiver of the \$150 Filing Fee**

A claimant whose gross monthly income is less than three times the federal poverty guidelines does not have to pay the filing fee. The claimant must complete the **Claimant's Request for Waiver of \$150 Arbitration Filing Fee** form on page 1 and mail or fax it to the OIA *within 75 days* of the day the OIA received the demand for arbitration. Please note: This waiver request has a deadline. See Rule 12.

A claimant whose gross monthly income is more than three times the federal poverty guidelines may still qualify for a waiver of the filing fee because of financial hardship. The necessary waiver request form, provided on pages 4-8, requires evidence that the claimant is receiving some form of public assistance or detailed personal financial information to document the financial hardship.

## **B. Waiver of the Neutral Arbitrator's Fees and Expenses**

A claimant who signs and returns the **Waiver of Objection to Payment of Fees** and the **Waiver of Party Arbitrator - Claimants** forms does not have to pay the neutral arbitrator's fees. *No financial information is required.* All claimants and their attorneys, however, must sign the forms.<sup>2</sup> By signing these forms, a claimant agrees 1) not to object that the arbitration is somehow unfair because Kaiser pays all the neutral arbitrator's fees and expenses and 2) not to use a party arbitrator. See Rule 15 and pages 2-3 for the forms.

This is the most common waiver. It only requires the signatures of all claimants and their counsel.

## **C. Waiver of the \$150 Filing Fee and the Neutral Arbitrator's Fees and Expenses While Retaining the Right to a Party Arbitrator**

A claimant with extreme financial hardship may request a waiver of both the filing fee and the neutral arbitrator's fees and expenses while retaining the right to a party arbitrator. The test of financial hardship is met if a claimant is receiving some form of public assistance. It can also be satisfied if the claimant has large expenses in relation to income. A claimant must complete the **Request Form for Waiver of Filing Fee and Fees and Expenses of Neutral Arbitrator** found on pages 4-8.

A copy of this form is given to Kaiser. While Kaiser may object to the request, it is the OIA that decides whether to grant the waiver. If granted, Kaiser pays both the filing fee and the neutral arbitrator's fees and expenses and the claimant is allowed to select a party arbitrator. The claimant, however, is responsible for the party arbitrator's fees and expenses. See Rule 13.

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<sup>2</sup>Claimants who seek less than \$200,000 do not need to submit the party arbitrator form.