

## Summary of the 2024 Annual Report of the Office of the Independent Administrator (OIA) for California Kaiser Permanente Member Arbitrations

### Overview and Purpose

The Office of the Independent Administrator (OIA), led by attorney Marcella A. Bell, oversees the arbitration system for claims brought by Kaiser Foundation Health Plan, Inc. (KFHP) members against Kaiser or its affiliates. The system is designed to provide a fair, timely, and low-cost arbitration process, with a strong emphasis on transparency. The OIA operates independently under the oversight of the Arbitration Oversight Board (AOB) and issues annual reports to assess performance and improvements.

### Key Developments in 2024

- **AOB Membership Changes:** Long-serving chair Richard Spinello and member Sylvia Drew Ivie resigned. Dr. Mark Lane Welton joined, and Carlos Camacho was elected chair, with Dr. John Swartzberg as vice-chair. The AOB also convened new committees for bylaws and nominations.
- **Rule Amendments:** Significant rule changes took effect in February 2025, including extended deadlines for arbitrators to serve awards and new rules for handling mass arbitrations, particularly those related to online tracking technologies.
- **Diversity Initiatives:** The OIA and AOB continued efforts to improve the diversity of the neutral arbitrator panel, resulting in a 21% increase in women and a 20% increase in individuals of color since 2020.
- **Upcoming Audit:** In line with Blue Ribbon Panel recommendations, the OIA will undergo an audit in 2025.
- **Legislative Update:** The OIA will participate in a new voluntary certification program for alternative dispute resolution providers, mandated by California Senate Bill 940, effective January 2025.

### Arbitrator Panel and Selection

- **Panel Size and Composition:** At year-end, there were 195 neutral arbitrators (56% former judges), distributed across Northern California, Southern California, and San Diego. Most arbitrators (89%) have medical malpractice experience.
- **Turnover:** Nine arbitrators resigned, two were removed, and thirty-one joined the panel in 2024.

- **Selection Process:** Of 531 arbitrator selections, 20% were jointly selected by parties, while 80% were chosen through a "strike and rank" process. The average time to select a neutral arbitrator was 58 days, a significant improvement over the pre-OIA system, which averaged 674 days.

### **Case Statistics**

- **Demands for Arbitration:** The OIA received 576 new demands, mainly for medical malpractice (93%).
- **Representation:** 69% of claimants had attorneys; 31% were self-represented (proper).
- **Case Outcomes:** Of the cases closed:
  - 51% settled
  - 26% were withdrawn
  - 13% closed by summary judgment (mostly favoring Kaiser)
  - 5% were dismissed by arbitrators
  - 5% proceeded to a hearing and award (44% of these resulted in awards for claimants, averaging \$338,460).
- **Case Duration:** Average time to close a case was 396 days (about 13 months), with 82% closing within the 18-month deadline.

### **Arbitration Costs and Fee Waivers**

- **Filing Fee:** Claimants pay a \$150 filing fee, which is lower than court fees. Fee waivers are available for low-income claimants, and mechanisms exist to shift arbitrator fees to Kaiser in most cases.
- **Fee Distribution:** Kaiser paid 100% of neutral arbitrator fees in 96% of cases where there were fees, and the average fee was \$11,271.

### **Evaluations and System Feedback**

- **Party Evaluations:** Parties rated arbitrators and the OIA system on fairness, impartiality, and efficiency. Most feedback was positive, especially from respondents' counsel, though self-represented claimants gave lower scores. 92% of parties rated the OIA system as the same as or better than state court.

- **Arbitrator Evaluations:** Neutral arbitrators overwhelmingly rated the OIA system as efficient and preferable or equivalent to court proceedings.
- **Common Complaints:** Parties cited challenges in obtaining medical records and concerns about system bias or lack of transparency, particularly among self-represented claimants.

### **Role and Activities of the Arbitration Oversight Board**

- The AOB provides oversight, reviews OIA reports, approves rule changes, and monitors diversity and case timeliness. It also initiated the upcoming OIA audit and manages board membership.

### **Trends Over Time**

- **Case Volume:** The number of demands for arbitration decreased slightly from the previous year.
- **Panel Diversity and Size:** The panel is more diverse and includes a higher percentage of retired judges than ever before.
- **Case Outcomes:** Settlement rates remain stable, while the proportion of self-represented claimants has increased over time.
- **Efficiency:** The average time to select arbitrators and close cases has remained low compared to historical figures.

### **Conclusion**

The OIA-administered arbitration system for Kaiser Permanente continues to meet its goals of fairness, timeliness, and cost-effectiveness, with ongoing improvements in diversity, transparency, and efficiency. Most cases are resolved within established deadlines, and the system is generally rated favorably by both parties and arbitrators compared to traditional court proceedings.