



A PATIENT'S GUIDE  
TO ARBITRATION

# What is Arbitration?

Arbitration is a way for patients, health care providers and health plans to resolve disputes without resorting to lawsuits. Arbitration occurs privately, outside the court system.

In arbitration, the disputing parties tell their side of the story to an arbitrator or panel of arbitrators. An arbitrator is a neutral person, typically a former judge or a lawyer. Parties may submit documents and provide testimony to the arbitrator. After hearing all sides of the story, the arbitrator decides the matter and issues an award. The arbitration award is binding and legally enforceable, and can be reviewed by the courts.

## **HOW DO PATIENTS, HEALTH CARE PROVIDERS AND HEALTH PLANS AGREE TO ARBITRATION?**

Patients typically agree to arbitration through health plan enrollment documents or



admission documents upon seeking medical care. Through these agreements, patients and health care organizations typically agree to resolve any future disputes through arbitration rather than by bringing a lawsuit in court.

### **HOW DOES ARBITRATION COMPARE TO COURT?**

Although arbitration is similar to court in some ways, experts have concluded that it is far less expensive and less time-consuming than filing a lawsuit in court. Individual patients are entitled to the same substantive remedies as in court, and experts have concluded that patients win at least as often and receive as much compensation in arbitration as they do in court.

### **DOES THE GOVERNMENT SUPPORT ARBITRATION?**

The United States Congress and the United States Supreme Court strongly endorse arbitration as an alternative to lawsuits.

The U.S. Supreme Court says arbitration:

- is less expensive than a lawsuit
- has simpler rules
- minimizes hostility
- is more flexible in scheduling

Congress supports arbitration through the Federal Arbitration Act.

## WHAT IS AN ARBITRATION ADMINISTRATOR?

When parties agree to arbitration, they usually agree that the arbitration will proceed according to the rules of a specific arbitration administrator. An arbitration administrator ensures the arbitration process runs smoothly and on time. The administrator sends out hearing notices, coordinates schedules, and keeps parties up to date on the status of their case. Arbitration administrators also provide disputing parties with a roster of qualified arbitrators from which to choose.

## WHAT SHOULD PATIENTS LOOK FOR IN AN ARBITRATION ADMINISTRATOR?

### **Competent and Impartial Arbitrators:**

Arbitrators should be both skilled and neutral.

**Independent Administration:** An arbitration should be administered by someone other than the arbitrator or the parties themselves.

**Fundamental Fairness:** All parties in an arbitration should be entitled to fundamental fairness.

**Hearings:** Hearings should be convenient, efficient and fair for all.

**Right to Representation:** All parties should have the right to be represented in an arbitration, if they wish, by an attorney or other representative.

**Reasonable Time Limits:** A dispute should be resolved with reasonable promptness.

**Remedies:** Remedies resulting from an arbitration should conform to the law.

**Reasonable Cost:** The cost of arbitration should be proportionate to the claim and reasonably within the means of the parties, as required by applicable law.

**Reasonable Discovery:** Parties should have access to the information they need to make a reasonable presentation of their case.

**Contracts for Dispute Resolution:** An agreement to resolve disputes through arbitration is a contract and should conform to the legal standards of contract and applicable statutory law.

**Access to Information:** Information about arbitration should be reasonably accessible before the parties commit to an arbitration contract.

#### ARE THERE SPECIAL TIPS FOR PATIENTS TO FOLLOW WITH ARBITRATION?

**1**

Try to resolve your complaint directly with the health care provider before proceeding to arbitration. Sometimes simply talking with the provider or clarifying information may resolve the matter.

**2**

An arbitration agreement is a legal contract between two parties. Read all agreements and contracts when you are reviewing plan enrollment and admission documents.

**3**

Keep records, correspondence, proof of payment, and copies of admission documents. This information might be important if a dispute arises later.

**4**

Educate yourself. Most arbitration administrators have websites and other information available about their services.

# How Arbitration Works

- People agree to use arbitration in a contract. This could be in the form of papers signed when entering a healthcare facility, when purchasing a car, or notices sent from a bank.
- Arbitration is only used when people have a legal dispute they cannot settle on their own.
- Typically, to begin an arbitration, one party completes an arbitration claim form, files it with the arbitration administrator and pays a filing fee, if any. The other party responds.
- In some systems, the parties can have a Document Hearing, where an arbitrator studies the paperwork or electronic documents submitted by each party, makes a decision and issues an arbitration award.
- The parties could opt for a Participatory Hearing where each party submits evidence and appears before an arbitrator who studies the evidence, makes a decision and issues an arbitration award.
- The arbitration decision or award is legally enforceable by the courts.

## ABOUT US

Since 1986, the National Arbitration Forum has provided out-of-court solutions to resolve disputes more efficiently, cost-effectively, and amicably. Our distinguished panel of over 1,500 legally trained mediators and arbitrators, located in 50 states and 29 countries, resolves cases by applying substantive law, offering parties the same outcomes as court, but at a fraction of the time and cost.

No matter what kind of dispute arises, we can help you resolve it. For more information, contact us toll-free at **877-655-7755** or visit our website at **[www.adrforum.com](http://www.adrforum.com)**.



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