



AAA® Healthcare ADR Services

Cost-effective, rapid, private alternative dispute resolution (ADR) options to help resolve healthcare-related disputes.



The American Arbitration Association® (AAA) works with healthcare and related organizations to integrate ADR methods into their dispute resolution programs, equipping them to resolve disputes while salvaging business relationships.

Why Are Healthcare Clients Selecting AAA?

As the number of business transactions in the healthcare industry increases, so does the potential for disputes—since 2005, there has been a double-digit percent increase in the quantity of healthcare-related cases filed with the American Arbitration Association.

Reasons 1 and 2: Cost- and Time-Effective Healthcare Dispute Solutions

Service Selection

Parties can choose from a wide offering of services that suits their needs and timelines. Services range from List Only (the AAA simply provides a list of expert arbitrators appropriate for the case); List and Selection (the AAA facilitates conflicts checks with specific arbitrators and assists with selection/appointment) and full-service case administration or mediation.

Speed

AAA arbitrators are trained to facilitate rapid resolution. Subject-matter experts, they keep the parties focused on the disputed issues rather than spending time educating a judge in the nuances of their field.

COMMERCIAL CLAIMS	MEDIAN TIMEFRAME
AAA Commercial Claims \$10M	517 days (17+ months)
AAA Commercial Claims: \$75K - \$500K	305 days (10 months)
AAA HEALTHCARE CLAIMS	MEDIAN TIMEFRAME
\$1M+	493 days (16 months)
\$500K - \$1M	419 days (13.5 months)
\$75K - \$499K	278 days (9.3 months)
Under \$75K	161 days (5.4 months)
U.S. DISTRICT COURT (ALL CASES)	MEDIAN TIMEFRAME
<i>The U.S. District Courts report the median time to disposition for cases filed in court was 23.3 months (699 days) during the 12-month period ending March 31, 2010.</i>	699 days (23.3 months)



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Streamlined Rules

To better address the unique and specific reimbursement disputes between payors and providers, the AAA developed and established the *AAA Healthcare Payor Provider Arbitration Rules*, the first of its kind (effective January 2011). (Visit www.adr.org/pprules to view.)

To provide cost and time efficiencies, arbitrations are heard by a single arbitrator regardless of the amount in controversy, unless the parties agree otherwise. Parties choose one of three administrative procedures (tracks) based on the size and complexity of the case:

- Desk/Telephonic Track involves telephonic advocacy; there is no discovery or depositions without good cause shown.
- Regular Track limits depositions to one per party, with additional depositions considered based on good cause shown.
- Complex Track limits depositions to two per party, with additional depositions considered based on good cause shown.

These rules do not include disputes between consumers and employers who sponsor benefit plans. Those, and all other healthcare disputes not concerning payors and providers, use the *AAA Commercial Arbitration Rules and Procedures*. AAA's flexibility extends to allowing parties to select the fee schedule (standard or flexible) that works for them as well as to stipulate to their own set of procedures.

Reason 3: The Healthcare Expertise of AAA Arbitrators and Mediators

The AAA provides clients with access to the AAA National Healthcare Roster, arbitrators and mediators with demonstrated expertise in the technical, business and legal aspects of healthcare disputes.

To be considered for the panel, healthcare business executives must have a minimum of 10 years healthcare experience, with at least seven in a senior-level position at a healthcare industry company, firm or organization. Attorneys must have a minimum of 10 years in legal practice, at least 30% of which for the past 10 years has been devoted to the practice of health law. All accepted panelists undergo a comprehensive and continuing training program.

Members of the AAA National Healthcare Roster include:

- Outside counsel representing major health systems, health plans, providers, trade associations and hospitals
- In-house counsel with major healthcare trade associations, hospitals, health plans, providers and health systems
- Physicians and nurses with law degrees
- CEOs, CFOs & CPAs for large health systems and providers
- Healthcare consultants



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Experience of the AAA National Healthcare Roster includes:

- Transactions
- Managed care
- Credentialing
- Peer review
- Provider contracts
- Medical malpractice (post dispute or mediation)
- Reimbursement
- Technology
- Joint Ventures

Parties can opt for their cases to be heard by a neutral from the Judicial Panel. Payor Provider disputes can be heard by a member of the new AAA Judicial Healthcare Payor Provider Panel, which has been specially oriented to hear these disputes.

Healthcare Customers of the AAA

- Benefits administrators
- Equipment (sale, lease, maintenance)
- Hospitals
- Information System Vendors
- Managed Care Organizations
- Medical Suppliers
- Outsourced Healthcare Services
- Pharmaceutical Manufacturers
- Physicians Groups
- Hospitals
- Health Systems
- Health Plans

Healthcare-Reimbursement Cases Served by the AAA

- Healthcare corporate transactions
- Payor/provider and managed-care contracting
- Credentialing/peer review and hospital governing boards
- Provider contracts
- Asset sales and purchase disputes
- Outsourcing and vendor disputes
- Joint venture/mergers & acquisitions
- Licensing/healthcare technology
- Employment

For more details about the AAA Healthcare ADR Services, please visit www.adr.org/healthcare.

To get started on solutions for a dispute, please contact Michelle Skipper by email at SkipperM@adr.org or by telephone at 704.643.8605.

To contact customer service, please call 800.778.7879 (toll free).



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Pre-Dispute Protection: Sample Clauses

The best way to protect your organization is to insert a clause into your contracts that provides for the handling of potential disputes. The AAA also provides for disputes that may arise when no clause is in place and in the event that emergency relief is necessary.

Arbitration

For Payors & Providers or Payor Provider Disputes

Parties can provide for binding arbitration of future healthcare disputes involving payors and providers by inserting the following clause into their contracts:

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration, administered by the American Arbitration Association pursuant to its Healthcare Payor Provider Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Arbitration of existing disputes may be accomplished by use of the following clause:

We, the undersigned parties, hereby agree to submit to binding arbitration administered by the American Arbitration Association, under its Healthcare Payor Provider Arbitration Rules, the following domestic healthcare controversy involving a Payor and a Provider: (describe briefly). We further agree that the above controversy shall be administered according to one of the following three designated tracks: (Insert one of the following: Desk/Telephonic Track, Regular Track, or Complex Track). We further agree that we will faithfully observe this agreement and the rules, that we will abide by and perform any award rendered by the arbitrator(s), and that a judgment of any court having jurisdiction may be entered on the award.

For All Other Healthcare Disputes

Parties can provide for arbitration of future disputes by inserting the following clause into their contracts:

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.



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Arbitration of existing disputes may be accomplished by use of the following:

We, the undersigned parties, hereby agree to submit to arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules the following controversy: (describe briefly). We further agree that the above controversy be submitted to (one) (three) arbitrator(s). We further agree that we will faithfully observe this agreement and the rules, that we will abide by and perform any award rendered by the arbitrator(s), and that a judgment of any court having jurisdiction may be entered on the award.

Emergency interim relief.

The AAA appreciates that parties may find themselves in a situation that demands immediate relief. In transactions likely to require emergency interim relief, the parties may add the following language to their clause:

The parties also agree that the AAA Optional Rules for Emergency Measures of Protection shall apply to the proceedings.

After filing a healthcare case.

A Manager of ADR Services—a specialized team leader overseeing and managing administration of healthcare cases filed with the AAA—is assigned to the case. From the selection of an arbitrator to the issuance of an award, the Manager of ADR Services acts as a guide to ensure a swift and seamless resolution of the case.

Mediation

Prior to arbitration, parties may wish to submit their dispute to mediation. AAA mediators skilled in negotiation and knowledgeable about the healthcare industry assist the parties in reaching a settlement but have no authority to issue a binding decision. Mediation is administered by the AAA in accordance with its Commercial Mediation Procedures. There is no additional administrative fee where parties to a pending arbitration attempt to mediate their dispute under the AAA's auspices.

If the parties want to adopt mediation as a part of their contractual dispute-settlement procedure, they can insert the following mediation clause into their contract in conjunction with a standard arbitration provision:

If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure.



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If the parties want to use a mediator to resolve an existing dispute, they can enter into the following submission:

The parties hereby submit the following dispute to mediation administered by the American Arbitration Association under its Commercial Mediation Procedures. (The clause may also provide for the qualifications of the mediator(s), method of payment, locale of meetings, and any other item of concern to the parties.)