

## FAQ: Mediation and arbitration requirements and processes

[Senate Bill 1264](#), passed during the 2019 legislative session, outlines arbitration and mediation processes for certain billing disputes. The new law applies to bills for medical services or supplies received on or after January 1, 2020.

The law outlines two processes:

- **Mediation:** Used for billing disputes between out-of-network facilities and health plans.
- **Arbitration:** Used for billing disputes between out-of-network health care providers (not facilities) and health plans.

### System goals, timelines, and processes

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#### What are the goals of mediation and arbitration?

Mediation	Arbitration
Help the parties involved in the dispute reach an agreed upon amount and settle the case.	Decide which amount is closest to the reasonable amount of the provided health care service or supply: <ul style="list-style-type: none"><li>• The amount the health plan paid or, if applicable, the amount the health plan modified during an appeal or informal settlement period.</li></ul> or <ul style="list-style-type: none"><li>• The amount the provider charged or, if applicable, the amount the provider modified during an appeal or informal settlement period.</li></ul> To do this, the arbitrator must evaluate the final billed charges and final reimbursement amount offered based on the 10 factors listed in <a href="#">Texas Insurance Code Section 1467.083</a> .

## What are the dispute resolution timelines and steps?

Mediation	Arbitration
<p><b>Before a request for mediation is made:</b> The provider should try resolving the payment dispute through the health plan’s internal appeal process.</p>	<p><b>Before a request for arbitration is made:</b> The provider should try resolving the payment dispute through the health plan’s internal appeal process.</p>
<p><b>A request for mediation can be made:</b> 20 days after the date the out-of-network provider receives the first claim payment.</p>	<p><b>A request for arbitration can be made:</b> Between 20 and 90 days after the date the out-of-network provider receives the first claim payment.</p>
<p><b>Day 1: Mediation is requested through the <a href="#">Independent Dispute Resolution portal</a>.</b> This starts a 30-day informal settlement period. During this time, the facility and health plan can:</p> <ul style="list-style-type: none"> <li>• Settle in an informal teleconference.</li> <li>or</li> <li>• Select a mediator that both parties agree on. The parties can choose their own or one from <a href="#">our list</a>. If a mediator is selected, the parties must tell us and the chosen mediator.</li> </ul>	<p><b>Day 1: Arbitration is requested through the <a href="#">Independent Dispute Resolution portal</a>.</b> This starts a 30-day informal settlement period. During this time, the provider and health plan can:</p> <ul style="list-style-type: none"> <li>• Settle in an informal teleconference.</li> <li>or</li> <li>• Select an arbitrator that both parties agree on. The parties can choose their own or one from <a href="#">our list</a>. If an arbitrator is selected, the parties must tell us and the chosen arbitrator.</li> </ul>
<p><b>Day 31:</b> On or after this date, we will assign a mediator if one has not been agreed to by the parties.</p>	<p><b>Day 31:</b> On or after this date, we will assign an arbitrator if one has not been agreed to by the parties.</p>
<p><b>Day 180:</b> Mediation must have taken place by this date.</p>	<p><b>Day 51:</b> By this date: (1) arbitration must have taken place, (2) the arbitrator must have notified the parties of the final decision, and (3) the arbitrator must have filed a report on the <a href="#">Independent Dispute Resolution portal</a>.</p> <p>The report must list the parties involved, which party was closest to the reasonable amount, and the award amount.</p>

<p><b>45 days after mediation concludes:</b> The mediator must file a report on the <a href="#">Independent Dispute Resolution portal</a>.</p> <p>The report must list the parties involved and if an agreement was reached.</p>	<p><b>Within 45 days after the arbitrator's decision:</b> Either party can file an action in civil court.</p>
<p><b>Within 45 days after the mediator's report is provided to us:</b> Either party can file an action in civil court.</p>	

### What are the 10 factors that must be considered during arbitration?

Arbitrators must use the following 10 factors to determine the reasonable amount for services:

1. Whether there is a gross disparity between the fee billed by the out-of-network provider and:
  - o Fees paid to the out-of-network provider for the same services or supplies rendered by the provider to other enrollees for which the provider is an out-of-network provider.
  - o Fees paid by the health benefit plan issuer to reimburse similarly qualified out-of-network providers for the same services or supplies in the same region.
2. The level of training, education, and experience of the out-of-network provider.
3. The out-of-network provider's usual billed charge for comparable services or supplies with regard to other enrollees for which the provider is an out-of-network provider.
4. The circumstances and complexity of the enrollee's case, including the time and place of the provision of the service or supply.
5. Individual enrollee characteristics.
6. The 80th percentile of all billed charges for the service or supply performed by a health care provider in the same or similar specialty and provided in the same geozip area as reported in the FAIR Health benchmarking database.
7. The 50th percentile of rates for the service or supply paid to participating providers in the same or similar specialty and provided in the same geozip area as reported in the FAIR Health benchmarking database.
8. The history of network contracting between the parties.
9. Historical data for the percentiles described by #6 and #7.
10. An offer made during the informal settlement teleconference.

### Are the parties required to use a TDI certified mediator or arbitrator?

No. The parties can agree to use an outside person to serve as a mediator or arbitrator.

If the dispute request was already entered into the [IDR portal](#), you must send the outside mediator or arbitrator’s name and email address to [IDR@tdi.texas.gov](mailto:IDR@tdi.texas.gov). We will give that person access to the portal. That mediator or arbitrator will need to provide information about the dispute resolution in the portal.

**How will the mediators and arbitrators get information to conduct the mediation or arbitration?**

Mediators	Arbitrators
<p>The mediator decides the timing, information, and how the parties involved in the dispute will send the information to them.</p> <p>The mediator can request information from each party by email and phone.</p>	<p>The arbitrator decides the timing and how the parties involved in the dispute will send the information to them.</p> <p>The arbitrator can request information from each party by email and phone.</p> <p>The parties involved in the dispute will provide health care cost information based on 10 factors listed in <a href="#">Texas Insurance Code Section 1467.083</a>.</p>

**How will mediations and arbitrations be conducted?**

Mediation	Arbitration
<p>Most mediations can be conducted by phone.</p> <p>No travel is needed.</p>	<p>Arbitrations can be conducted using email and online sources.</p> <p>No travel is needed.</p>

**Are the mediation and arbitration processes final?**

Mediation	Arbitration
<p>Either party can file an action in civil court within 45 days after the mediator’s report is filed in the <a href="#">Independent Dispute Resolution portal</a></p>	<p>The arbitrator’s decision is binding, but either party can file an action in civil court within 45 days after the arbitrator’s decision.</p>

**How much do mediators and arbitrators charge?**

Each mediator and arbitrator determines the fixed fee they will charge per case.

**If the parties settle before the mediator or arbitrator provides services, will they still need to pay for services?**

Yes. Once a mediator or arbitrator is assigned to a case, each party involved in the dispute is required to pay half of the fixed fee.

## **Dispute resolution requests**

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### **How do I submit a dispute resolution request?**

1. Log into the [IDR portal](#). (If you don't already have a username and password, follow the instructions on the login screen.)
2. Click on the "Submit a new mediation / arbitration request" at the top of the page.
3. Answer the questions on the online form.

You can learn more about the process on our [Mediation and arbitration of medical bills](#) webpage.

### **How do I view a request for dispute that I filed or the other party filed?**

1. Log into the [IDR portal](#).
2. Click on the "Active requests" panel.
3. Click on the Request ID for the dispute you want to view.

If you know the Request ID, you can use the Search box in the "Active requests" panel or the "Search requests" option in the blue bar at the top of the page.

### **What action needs to be taken if the parties settled in an informal teleconference?**

The health plan must:

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Open the "Informal teleconference information" panel.
4. Enter the required information.

After those steps are taken, each party will get an email confirming that the request was settled.

Only the health plan can enter the informal teleconference information into the IDR portal.

### **When can the parties extend deadlines to resolve the dispute request?**

The parties can extend deadlines up until the "assignment deadline" date – the date we must assign a mediator or arbitrator to the dispute. To see the assignment deadline date, you can:

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Find "Assignment deadline" at the top of the page.

When you are no longer able to extend deadlines, you will see a message at the top of the "Request details" page that says, "You can no longer extend deadlines."

## How do the parties extend deadlines to resolve the request?

One of the parties must:

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Go to the "Extend deadlines" section at the top of the page.
4. Enter the number of days they want to extend.
5. Click "Submit."

After one party enters the request to extend the deadline, an email will go to the other party letting them know an extension request was made. The other party then needs to:

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Go to the "Extend deadlines" section at the top of the page. They will see the number of days requested for the extension.
4. They can click on the "Approve" or "Reject" button.

An email will go to the other party letting them know if the extension request was approved or rejected. If the other party clicks "Reject" and there is still time to ask for an extension, another extension request can be made by either party.

## How do I approve or reject a request to extend deadlines by the other party?

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Go to the "Extend deadlines" section at the top of the page. You will see the number of days requested for the extension.
4. Click on the "Approve" or "Reject" button.

An email will go to the other party letting them know if the extension request was approved or rejected.

If one party clicks "Reject" and there is still time to ask for an extension, another extension request can be made by either party.

## When will TDI assign a mediator or arbitrator to the request?

Unless the parties [ask for an extension on the deadlines](#) to resolve the request, TDI will assign a mediator or arbitrator 31 days after the request is filed on the [IDR portal](#).

You can track this date by looking at the request's assignment deadline. To see the assignment deadline, you can:

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Find "Assignment deadline" at the top of the page.

### How can I see which mediators or arbitrators might be assigned to a request?

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Open the "Mediator selection" or "Arbitrator selection" panel.

### How do I select a mediator or arbitrator?

There are three ways to select a mediator or arbitrator:

- **Use one of the TDI certified mediators or arbitrators listed on the request.**

To review the list of five mediators or arbitrators that could be assigned to this request:

1. Log into the [IDR portal](#).
2. [Open the request](#).
3. Open the "Mediator selection" or "Arbitrator selection" panel.

Each party can remove up to two from the list. Thirty-one days after the request is filed, we will assign one of the mediators or arbitrators who are still on the list. Assignments are made by rotation.

- **Select a TDI certified mediator or arbitrator not listed on this request.**

1. Pick someone on the list of [TDI certified mediators and arbitrators](#).
2. Ask the other party if they agree to use the mediator or arbitrator that you picked.
3. Let us know who both parties agreed to use by sending the mediator or arbitrator's name and email address to [IDR@tdi.texas.gov](mailto:IDR@tdi.texas.gov).

- **Select a mediator or arbitrator not certified by TDI.**

1. Ask the other party if they agree to use the mediator or arbitrator that you picked.
2. Let us know who both parties agreed to use by sending the mediator or arbitrator's name and email address to [IDR@tdi.texas.gov](mailto:IDR@tdi.texas.gov).

We will give the chosen mediator or arbitrator access to the portal. That mediator or arbitrator will need to provide information about the dispute resolution in the portal.

## Mediator and arbitrator requirements

### What are the qualifications for mediators and arbitrators?

Mediators	Arbitrators
<p>Mediators must complete at least 40-hours of training in dispute resolution techniques.</p>	<p>It is preferred that the arbitrator has knowledge about and experience in the health care industry and in contract and insurance law.</p>
<p>Mediators must not have any conflicts of interest. A person can't act as a mediator if, in the three years immediately preceding the request for mediation, they have been employed by, consulted for, or had a business relationship with:</p> <ul style="list-style-type: none"> <li>• A doctor</li> <li>• A health care facility</li> <li>• Other health care provider</li> <li>• A health benefit plan issuer or administrator</li> </ul>	<p>Arbitrators must not have any conflicts of interest. A person can't act as an arbitrator if they or their close family member is a doctor or health care provider, or a current or recent owner or employee of:</p> <ul style="list-style-type: none"> <li>• A health care facility</li> <li>• A health care practice</li> <li>• A health benefit plan issuer or administrator</li> </ul>

### How does a person apply to be a TDI certified mediator or arbitrator?

Check the [Mediators and arbitrators for billing disputes](#) webpage to find out if applications are being taken.

### Can a person serve as both a mediator and an arbitrator?

Yes. They must meet the qualifications for both.

### What are the terms and conditions for serving as a mediator or arbitrator?

Mediators	Arbitrators
<p>When you apply, you must agree to these terms and conditions:</p> <ul style="list-style-type: none"> <li>• My answers on this form are true and correct.</li> <li>• I will comply with <a href="#">Texas Insurance Code Chapter 1467</a> regarding mediator qualifications and requirements.</li> </ul>	<p>When you apply, you must agree to these terms and conditions:</p> <ul style="list-style-type: none"> <li>• My answers on this form are true and correct.</li> <li>• I will comply with <a href="#">Texas Insurance Code Chapter 1467</a> regarding arbitrator qualifications and requirements.</li> </ul>



<ul style="list-style-type: none"> <li>• If assigned as a mediator after the 30-day informal settlement period, I will provide the mediator’s report through TDI’s website within 45 days from the day the mediation concludes.</li> <li>• I will let TDI know if I have a conflict of interest within 10 days of learning about the conflict.</li> <li>• If I have a conflict of interest, I will immediately withdraw from the assigned mediation.</li> <li>• I understand that when I submit this form (my application), the application and any uploaded documents: (1) will become the property of TDI, and (2) may be subject to release under the Texas Public Information Act, <a href="#">Texas Government Code Chapter 552</a>.</li> </ul>	<ul style="list-style-type: none"> <li>• If assigned as an arbitrator after the 30-day informal settlement period, I will provide the arbitrator’s report through TDI’s website within 51 days from the date the arbitration request was filed.</li> <li>• I will let TDI know if I have a conflict of interest within 10 days of learning about the conflict.</li> <li>• If I have a conflict of interest, I will immediately withdraw from the assigned arbitration.</li> <li>• I understand that when I submit this form (my application), the application and any uploaded documents: (1) will become the property of TDI, and (2) may be subject to release under the Texas Public Information Act, <a href="#">Texas Government Code Chapter 552</a>.</li> </ul>
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**I am not a TDI certified mediator or arbitrator, but I was asked to help the parties resolve a dispute, what do I need to do?**

After both parties agree to use you as a mediator or arbitrator, they must send us your name and email. When we get your information, we will send you an email with instructions for how to log into the [IDR portal](#).

You can learn more about the process on our [Mediation and arbitration of medical bills](#) webpage.