

Comparison of balance bill arbitration and dispute resolution processes

Senate Bill 1264 outlines arbitration and mediation processes for balance bills in Texas. The arbitration process is used to resolve payment disputes between out-of-network providers (not facilities) and health plans. The mediation process is used to resolve payment disputes between out-of-network facilities and health plans.

The following chart compares the arbitration and dispute resolution processes of Texas, New York, and New Jersey. This information is based on: (1) reviews of the statutes, rules, and website information of each state, and (2) discussions with agency staff and vendors in each state.

	Texas (arbitration)	New York (dispute resolution)	New Jersey (arbitration)
How are arbitration and dispute resolution decisions made?	<p>The total bill is reviewed.</p> <p>The decision is based on which side is closest to the reasonable amount. One side wins.</p>	<p>Billing codes that make up the total bill are individually reviewed.</p> <p>Decisions are made code by code. This means each side can win on some codes and lose on other codes.</p> <p>Some billing codes for emergency services are exempt from the dispute resolution process if they fall below a certain dollar amount. The health plan must pay for these exempt services.</p>	<p>Billing codes that make up the total bill are individually reviewed.</p> <p>The decision about the total bill is based on which side is closest to the reasonable amount. One side wins.</p>

	Texas (arbitration)	New York (dispute resolution)	New Jersey (arbitration)
Is balance billing prohibited?	Yes	No	Yes
Is consumer action required to start the arbitration or dispute resolution process?	No	Yes If the patient gets a balance bill, they also get a form they can return to the provider. The form gives the provider authority to request dispute resolution.	No
Does the state define "usual and customary"?	No	Yes Usual and customary cost is defined as the 80th percentile of all charges based on FAIR Health benchmark data.	No

	Texas (arbitration)	New York (dispute resolution)	New Jersey (arbitration)
<p>What qualifications are required for arbitrators and dispute resolution teams?</p>	<p>Arbitrators must be experienced in contract and insurance laws, and not have conflicts within the health care industry.</p>	<p>The dispute resolution team includes a provider and a professional billing coder.</p> <p>The provider must be from a similar specialty. The provider reviews the skills, experience, and complexity of care needed for the health care service.</p> <p>The billing coder reviews the claim codes used for the health care service.</p> <p>The dispute resolution staff are employed by a company that contracts with the state.</p>	<p>The arbitrators have a legal background and work with professional billing coders.</p> <p>Arbitration staff and professional billing coders are employed by a company that contracts with the state.</p>

	Texas (arbitration)	New York (dispute resolution)	New Jersey (arbitration)
What information is considered?	<p>The arbitrator must consider 10 factors. Factors include using information from the selected benchmarking database to determine the 80th percentile of providers' billed charges and the 50th percentile of health plans' payments for the same or similar services in that area.</p>	<p>A provider reviews the skills and experience of the treating provider, and the complexity of care needed for the health care service.</p> <p>The professional billing coder reviews each billing code to determine: (1) if the correct code was used, and (2) which side is closer to the reasonable amount based in part on data from FAIR Health.</p> <p>Note: The amounts billed (currently \$672.01) for some emergency services are exempt from dispute resolution. The exempt services must be paid by the health plan if the amount billed doesn't exceed 120% of the usual and customary cost for such code. The usual and customary cost is defined as the 80th percentile of all charges based on FAIR Health benchmark data.</p>	<p>The arbitrator and professional billing coder review the billing codes that comprise the total amount of the bill. Using FAIR Health benchmark data, they determine which side is closer to the reasonable amount.</p>

	Texas (arbitration)	New York (dispute resolution)	New Jersey (arbitration)
How much time is allotted for arbitration or dispute resolution?	<p>51 days</p> <p>This includes a 30-day informal teleconference.</p>	<p>30 days</p> <p>This includes a 10-day period to mediate.</p>	<p>Up to 30 days are given for negotiations once notice of a disputed payment is provided to one of the parties.</p> <p>If negotiations are not successful, either party can request formal arbitration and 30 days are given for this process.</p> <p>Following arbitration, the New Jersey Department of Banking & Insurance will accept complaints about the decision of the arbitrator.</p>
What is the volume of formal arbitration or dispute resolution requests per year?	<p>Volume is expected to be high based on the current mediation process and complaints from out-of-network providers and third-party billing companies.</p>	<p>Fewer than 1,500 per year.</p>	<p>Fewer than 1,500 per year.</p>