

**Supplemental Rules
Governing Mass Arbitrations**

**Administered by
the Office of the Independent Administrator
Effective as of February 14, 2025**

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Supplemental Rules Governing Mass Arbitrations

These Supplemental Rules Governing Mass Arbitrations (“Suppl. Rules”) are intended to provide an efficient process for the resolution of mass arbitrations administered by the Office of the Independent Administrator.

Suppl. Rule 1—Application of Rules

- (a) Pursuant to Rule 2 of the Rules for Kaiser Permanent Member Arbitrations Administered by the Office of the Independent Administrator (“OIA Rules”), Mass Arbitrations that meet the criteria set forth in Suppl. Rule 2 shall be conducted according to the Suppl. Rules.
- (b) The OIA Rules govern, except as articulated herein for Mass Arbitrations as defined in Suppl. Rule 2. The Suppl. Rules supplement the OIA Rules that would otherwise apply in an arbitration that does not meet the criteria of Suppl. Rule 2.
- (c) If there is a conflict or inconsistency between the OIA Rules and the Suppl. Rules, the Suppl. Rules shall apply.
- (d) The Suppl. Rules replace and supersede the Interim Rules: Tracking Technologies Cases in effect on September 23, 2024.

Suppl. Rule 2—Definition of Mass Arbitration

Mass Arbitration is defined as:

- (a) One or more arbitration demands submitted by or on behalf of twenty-five (25) or more persons who are eligible and enrolled under a Kaiser plan (“Member”). For purposes of this definition, the Member’s heirs, relatives, personal representatives, or any person claiming that a duty to them arises from a Member’s relationship to one or more Kaiser Permanente parties (“Member Parties”) shall not count towards the 25 Member threshold; and
- (b) Based on the same or substantially similar incident, transaction, or related circumstances.

Suppl. Rule 3—Determination of Mass Arbitration

- (a) Pursuant to OIA Rule 11, within ten (10) days of service of a Demand for Arbitration, the Health Plan shall transmit via email to the Independent Administrator the Transmission Form and all documents received from the Claimant(s) including, without limitation, the Demand for Arbitration, the Claimant Spreadsheet (as defined in Suppl. Rule 4(a)), and the envelope. The Health Plan shall also serve a copy of the Transmission Form on the Claimant(s). When transmitting the Demand(s) for Arbitration and any other documents to the Independent Administrator, the Health Plan shall specify on the Transmission Form whether the arbitration(s) is a Mass Arbitration.
- (b) Any Party may object to the designation of their arbitration(s) as part of a Mass Arbitration. The objecting Party shall serve on the Independent Administrator and the Process Arbitrator, if appointed, a written objection no later than ten (10) days after service of the Transmission Form. The Independent Administrator shall serve the objection on all Parties within five (5) days of receipt. Any Party opposing the objection to the designation of an arbitration(s) as a Mass Arbitration shall serve on the Independent Administrator and the Process Arbitrator, if appointed, a written response to the objection no later than five (5) days after service of the objection. The Process Arbitrator, if appointed, or, if not, the Independent Administrator shall decide whether the arbitration(s) is a Mass Arbitration within ten (10) days following receipt of the response to the objection or, if no response to the objection is received, within ten (10) days after the deadline for filing the response. In the event that no objection is received, the arbitration(s) shall be deemed a Mass Arbitration.
- (c) Any Party may request that its arbitration be included in a Mass Arbitration. The requesting Party shall serve a written request on the Independent Administrator and the Process Arbitrator, if appointed, within ten (10) days after service of the Transmission Form. The Independent Administrator shall serve the request on all Parties within five (5) days of receipt. Any Party opposing the request to add an arbitration(s) to a Mass Arbitration shall serve on the Independent Administrator and the Process Arbitrator, if appointed, a written objection no later than ten (10) days after service of the request. Any Party opposing the objection to a request for the designation of an arbitration(s) as a Mass Arbitration shall serve on the Independent Administrator and the Process Arbitrator, if appointed, a written response to the objection no later than five (5) days after service of the objection. The Process Arbitrator, if appointed, or, if not, the Independent Administrator shall decide whether the arbitration(s) is a Mass Arbitration within ten (10) days following receipt of any response or, if no response to the objection is received, within ten (10) days after the deadline for filing the response. In the event that no objection is received, the arbitration(s) shall be deemed a Mass Arbitration.

- (d) When serving the Transmission Form, objections or responses thereto, requests that an arbitration be included within a Mass Arbitration, or any other information relating to a Mass Arbitration, the Independent Administrator shall redact the names of and other identifying information regarding Claimants that are not represented by the same counsel until a protective order is entered in the arbitration(s) or the other Claimant(s) or Claimant(s)'s counsel provide written consent to the disclosure of such information.

Suppl. Rule 4—Filings and Procedures

- (a) In the event that any Demand(s) for Arbitration is served pursuant to OIA Rules 7 and 8 on behalf of more than twenty-five (25) Members, Claimant(s)' Demand(s) for Arbitration shall include the Medical Record Number ("MRN") of each Claimant(s) in addition to the other information required by OIA Rule 7. Claimant(s) may use the Demand for Arbitration form available on the OIA's website at www.oia-kaiserarb.com. Claimant(s) shall simultaneously with the Demand for Arbitration submit to the Health Plan a spreadsheet that includes the information listed in OIA Rule 7 as well as the MRN of each Claimant (the "Claimant Spreadsheet"). Claimant(s) may use the spreadsheet found on the OIA's website, or a similar format.
- (b) A Mass Arbitration shall be formally initiated (1) once the deadline for objections to the designation of an arbitration as a Mass Arbitration(s) has passed or, if an objection is submitted, once a decision has been made on that objection, and (2) after the Independent Administrator has received the Transmission Form, the Claimant Spreadsheet, the Member's MRN, and the filing fees (or after the Independent Administrator has granted a filing fee waiver). Within thirty (30) days following the formal initiation of the arbitration, the Independent Administrator shall notify all Parties to the arbitration that the Mass Arbitration has been formally initiated.
- (c) The Health Plan shall specify on the Transmission Form whether a Demand(s) for Arbitration submitted subsequent to the initial Demand for Arbitration ("Subsequent Arbitration Demand") should be included in an already pending Mass Arbitration and, if so, it should identify the already pending Mass Arbitration on the Transmission Form. The Transmission Form shall be served on the Independent Administrator. The Independent Administrator shall serve the Transmission Form for the Subsequent Arbitration Demand on all Parties. Prior to service, the Independent Administrator shall redact the names of and other identifying information regarding Claimants that are not represented by the same counsel until a protective order is entered in the arbitration(s) or the other Claimant(s) or Claimant(s)'s counsel provide written consent to the disclosure of such information. Pursuant to Suppl. Rules 3(b) and (c), the Parties may object to the Independent Administrator's or Process Arbitrator's decision to include or exclude a Subsequent Arbitration Demand as part of an already pending Mass Arbitration.

- (d) The Parties shall accept from the Independent Administrator documents, notices, and communications pertaining to each Mass Arbitration via a single, combined communication. The Independent Administrator will determine when separate documents, notices, and communications are required.

Suppl. Rule 5—Filing Fees

Each Member that is a Party to a Mass Arbitration, individually, or together with their Member Parties, shall each pay a filing fee of \$150 pursuant to OIA Rule 12.

Suppl. Rule 6—Requesting Expedited Procedures

If a Process Arbitrator has not been appointed, the Parties may request expedited procedures pursuant to OIA Rules 33, 34 and 36, except that, upon appointment of the Process Arbitrator, the Process Arbitrator shall set a deadline for completion of the arbitration. Once a Process Arbitrator has been appointed, a request for expedited procedures shall be submitted to the Process Arbitrator. Once a Neutral Arbitrator has been appointed, OIA Rule 35 shall apply.

Suppl. Rule 7—Selection of Process Arbitrator(s)

- (a) Within five (5) days of service of the notice that the arbitration has been formally initiated, the Independent Administrator shall simultaneously send to the Claimant(s) and the Respondent(s) an identical list of seven (7) possible Process Arbitrators (the “List of Possible Process Arbitrators”), along with the arbitrators’ application forms and redacted awards, if any. This provision shall supersede the deadline for the Independent Arbitrator to send the List of Possible Neutral Arbitrators under OIA Rule 16.
- (b) Within twenty (20) days from the day the Independent Administrator sends the List of Possible Process Arbitrators, the Parties may either (1) agree by joint written stipulation on the selection of a Process Arbitrator pursuant to the process set forth in OIA Rule 17; or (2) if the Parties do not collectively agree upon a Process Arbitrator, the Process Arbitrator shall be selected from the List of Possible Process Arbitrators pursuant to the process set forth in OIA Rule 18, except that Claimant(s), collectively, and Respondent(s), collectively, may strike up to two (2) names to which they object and shall rank the remaining names in order of preference with “1” being the strongest preference. Regardless of the number of Claimants or Respondents, the Claimant(s), collectively, shall return only one list of preferences and the Respondent(s), collectively, shall return only one list of preferences. If they do not, all persons named on the List of Possible Process Arbitrators shall be deemed equally acceptable to that Party.
- (c) OIA Rules 14, 22, 23, and 29 shall apply to the Process Arbitrator(s). For purposes of determining whether a Demand for Arbitration seeks total damages of \$200,000 or more under OIA Rule 14, only the claim of a single Member, including their Member Parties, shall be considered.

- (d) OIA Rule 21 shall not apply to the selection of the Process Arbitrator. Either Claimant(s) or Respondent(s) may make a single written request to the Independent Administrator for a thirty (30) day postponement of deadlines for selecting the Process Arbitrator(s). The written request must be received by the Independent Administrator on or before the deadline in Suppl. Rule 7(b). The deadlines for selecting the Process Arbitrator(s) shall not be extended for more than a single period of thirty (30) days, except for a showing of good cause.
- (e) When a Process Arbitrator receives an offer from the Independent Administrator or the Parties, the Independent Administrator and Process Arbitrator shall comply with OIA Rule 19.
- (f) The Process Arbitrator shall comply with OIA Rule 20 regarding arbitrator disclosures and challenges. The Parties shall comply with Rule 20 with respect to Party responses. After the statutory disqualification period expires, the Independent Administrator will deem that the Process Arbitrator has been appointed and shall inform the Parties.

Suppl. Rule 8—Authority of Process Arbitrator(s)

- (a) Within thirty (30) days after the appointment of the Process Arbitrator(s), the Process Arbitrator(s) shall hold an Arbitration Management Conference (“AMC”) to discuss, without limitation, the topics in OIA Rule 25 and Suppl. Rule 8(b). The Process Arbitrator(s) shall give notice to the Parties of the time and location of the AMC at least ten (10) days in advance. The AMC may be conducted by any method ordered by the Process Arbitrator or agreed upon by the Parties with the Process Arbitrator’s consent.
- (b) The Process Arbitrator(s) shall have authority to consider, and may issue orders, concerning administrative matters including, but not limited to:
 - i. Completion of the filing requirements provided in Suppl. Rule 4;
 - ii. Disputes regarding payment of filing fees;
 - iii. Disputes about the interpretation and applicability of the OIA Rules and the Suppl. Rules, including disputes relating to the duties of the Process Arbitrator. In cases involving a three Process Arbitrator panel, issues that are dispositive with respect to a claim, including summary judgment motions, will be ruled on by all three Process Arbitrators and decided by a majority of them;
 - iv. Objections to the Health Plan’s specification that a Demand for Arbitration is a Mass Arbitration or whether Subsequent Arbitration Demands may be part of a previously submitted Mass Arbitration;
 - v. Disputes over utilization of a single arbitrator or a three arbitrator panel as the Process Arbitrator(s) and/or the Neutral Arbitrator(s);

- vi. Requests for Expedited Procedures pursuant OIA Rules 33, 35 and 36;
 - vii. Appointment of liaison counsel for the Claimant(s) and the roles and responsibilities of liaison counsel including, without limitation, responsibility for notifying the Independent Administrator, the arbitrator(s), and the Parties regarding certain information, including new Parties that may be added to the Mass Arbitration;
 - viii. Orders relating to the Mandatory Settlement Meeting (“MSM”) required by OIA Rule 26, which shall be completed within six (6) months after the arbitration is formally initiated. The deadline for completing the MSM shall not be extended, except for a showing of good cause;
 - ix. In consultation with the Parties, consolidation or grouping of individual Demands for Arbitration;
 - x. In consultation with the Parties, management of the arbitration hearing dates and selection of cases for appointment of a Neutral Arbitrator;
 - xi. Coordination of any fact or expert discovery, including, without limitation, sequencing and timing for discovery, the use of any streamlined procedures such as initial disclosures or Claimant/Respondent fact sheets, and the entry of stipulated protective orders and electronically stored information protocols. Discovery shall not commence until after the Process Arbitrator(s)’ AMC. The Process Arbitrator(s) shall have authority to adjudicate discovery matters that are determined or included in the Process Arbitrator(s)’ AMC order;
 - xii. Any other non-merits issues affecting the administration of the Mass Arbitration that the Process Arbitrator(s) determines are appropriate for determination; and
 - xiii. Any other issue(s) the Parties agree in writing to submit to the Process Arbitrator(s).
- (c) OIA Rules 24.b. and c., 28.a., 30, 32, 40, 44, 48, 49, and 52 shall apply to the Process Arbitrator(s).
 - (d) Any and all of the Process Arbitrator(s)’ ruling(s) shall contain the reasons for the ruling(s) and be served on Parties and the Independent Administrator within fifteen (15) days of the hearing, or within fifteen (15) days of the last document to be submitted if the issue is decided on the papers and without a hearing.
 - (e) The Process Arbitrator(s) may hold a hearing(s) by telephone, video conferencing, or in person.
 - (f) Any and all rulings or decisions made by the Process Arbitrator(s) shall be final and binding upon the Parties and the Neutral Arbitrator(s).

- (g) The Process Arbitrator(s) shall retain jurisdiction over all issues within the Process Arbitrator's authority and any issues that are referred to the Process Arbitrator by the Parties or the Neutral Arbitrator(s).
- (h) Absent agreement of all counsel and unrepresented Parties, the Process Arbitrator(s) shall not serve as the Neutral Arbitrator for any cases in the same Mass Arbitration.

Suppl. Rule 9—Process Arbitrator Compensation

- (a) If the Claimant(s) and Claimant(s)'s counsel have signed and served on the Independent Administrator the Waiver of Objection to Payment of Fees Form and, if applicable, the Waiver of Party Arbitrator – Claimants Form provided for in OIA Rule 15.a., or the Independent Administrator has granted a Claimant's Fee Waiver Request pursuant to OIA Rule 13, Respondent(s) shall pay the fees and expenses of the Process Arbitrator. In all other arbitrations, the Respondent(s) shall pay one-half of the Process Arbitrator(s)'s fees and expenses. The Claimant(s) shall pay the other one-half of the Process Arbitrator(s)'s fees and expenses, except that if some but not all of the Claimant(s) and Claimant(s)'s counsel have signed and served on the Independent Administrator the Waiver of Objection to Payment of Fees Form and, if applicable, the Waiver of Party Arbitrator – Claimants Form, then the Claimant(s) and Claimant(s)'s counsel that have not signed such forms shall pay their proportional share of the one-half of the Process Arbitrator(s)'s fees and expenses and Respondent(s) shall pay the remainder of the Claimant(s)'s one-half.
- (b) Claimant(s) may be responsible for paying the fees of the Process Arbitrator in those instances when (1) the Process Arbitrator's fees and expenses were incurred as a result of conduct that causes the Process Arbitrator to incur needless fees and expenses pursuant to OIA Rule 15.d., or, (2) the Process Arbitrator determines that a Party should be responsible for paying all or a portion of the Process Arbitrator's fees and expenses as a result of the Party's failure to comply with its obligations under any of the OIA Rules or the Suppl. Rules.
- (c) The Independent Administrator shall not be responsible for, or involved in, the collection of the Process Arbitrator's fees.

Suppl. Rule 10—Selection of Neutral Arbitrators

- (a) Within twenty (20) days of service of the Process Arbitrator's order setting an arbitration hearing date or selecting cases for appointment of a Neutral Arbitrator, the Independent Administrator shall simultaneously send to the Parties a List of Possible Neutral Arbitrators pursuant to OIA Rules 16-18. This provision shall supersede the deadline for the Independent Arbitrator to send the List of Possible Neutral Arbitrators under OIA Rule 16.
- (b) OIA Rule 21 regarding postponement of the selection of the Neutral Arbitrator shall not apply to Mass Arbitrations, except that, either Claimant(s), collectively,

or Respondent(s), collectively, may make a single written request for a thirty (30) day postponement of deadlines for selecting the Neutral Arbitrator. The written request must be received by the Independent Administrator on or before the deadline to respond to the List of Possible Neutral Arbitrators pursuant to OIA Rule 16.c. The deadlines for selecting a Neutral Arbitrator shall not be extended for more than a single period of thirty (30) days, except for a showing of good cause.

Suppl. Rule 11—Extensions of Independent Administrator’s Deadlines

The Independent Administrator has the authority to extend for up to thirty (30) days, for a showing of good cause, any and all deadlines set forth in the Suppl. Rules, except that any such extension shall apply only to the Independent Administrator’s deadlines and not to the Parties’ deadlines. The Independent Administrator shall send the Parties written notice of any extensions.

Suppl. Rule 12—Amendment of Supplemental Rules

OIA Rule 50 shall apply to any amendment to these Supplemental Rules.