



OFFICE OF
INSURANCE COMMISSIONER

August 14, 2019

Dear Stakeholders,

Section 8 of the Balance Billing Protection Act, (Chapter 427, Laws of 2019) directs the Office of the Insurance Commissioner (OIC) to develop a list of approved arbitrators or entities that provide arbitration for use by parties pursuing arbitration of balance billing disputes. Arbitrators will preside over baseball style arbitration of these disputes between health care providers, facilities and carriers, as outlined in section 8 of the act.

OIC is seeking your input on both the minimum qualifications of arbitrators for inclusion on the OIC list, and the process that we are developing to implement section 8 of the act.

Parties pursuing arbitration can agree on an arbitrator from the OIC list, or one of the listed entities that provides arbitration services. If the parties cannot agree, OIC will narrow the list to five options. If the parties still cannot reach agreement, OIC will choose the arbitrator from the narrowed list.

Arbitrator Qualifications and Information:

Section 8 provides that arbitrators must be trained by the American Health Lawyers Association (ALHA) or the American Arbitration Association (AAA) and *should* have experience in matters related to medical or health care services in order to be included on the OIC arbitrator list. To this end, OIC is considering requiring that all arbitrators on the list:

1. Be admitted in good standing to the Washington state bar
2. Have completed 3 credits of a WSBA CLE on professional and ethical considerations for serving as an arbitrator
3. Have completed training related to arbitration from the AHLA, AAA or a similar organization.

OIC also would solicit information from applicants related to their practice and experience in health care related matters, which we anticipate would be of interest to the parties to an arbitration proceeding.

The application would include the following data fields:

- Name
- Washington State Bar membership and membership number
 - Year admitted
- Contact information:
 - Firm name



- Business address
 - Phone number
 - E-mail, and
 - Fax number.

- Association membership: Is the applicant a member of any of the following:
 - WSBA Health Law Section,
 - WSBA Alternative Dispute Resolution Section,
 - Washington State Society of Healthcare Attorneys
 - American Health Lawyers Association.

- Completion of 3 credits of a WSBA CLE on professional and ethical considerations for serving as an arbitrator:
 - Course name
 - Name of instructor
 - Course description
 - Date completed

- Information related to the applicant's practice:
 - Does the applicant represent primarily carriers, and/or providers/facilities?
 - Applicant experience in handling one or more of the following issues:
 - Health care billing disputes
 - Carrier and provider/facility contract negotiations
 - Health services coverage disputes
 - Other applicable experience

(Designate the percentage of practice devoted to each area)

- Training related to arbitration received from the AHLA, the AAA or a similar organization. For each course completed:
 - Name of course
 - Name of instructor
 - Course description
 - Date completed
 - CLE credits earned

- Experience and number of times the applicant has served as:
 - Arbitrator
 - Administrative Law Judge
 - Superior Court Pro Tem Judge
 - Superior Court Pro Tem Commissioner
 - District Court Judicial Officer

Web-based process

OIC is designing a web-based application for persons interested in being listed as an arbitrator for balance billing disputes. The application would be located on the OIC's Balance Billing Protection Act webpage. Interested arbitrators would complete the application and an attestation, and submit the documents online. OIC would inform the applicant as to whether they have been selected for inclusion on the list.

If selected, the arbitrator's name would appear in a searchable directory on the webpage, along with the information provided on the application. Thus, information provided on the application would be available to the public, and to providers, facilities and carriers initiating arbitration. As described above, the parties to the arbitration would select an arbitrator from the searchable list on the OIC's webpage.

Stakeholder input

We are interested in hearing your opinions regarding minimum arbitrator qualifications, additional information that should be gathered, and the process for implementing the arbitration provision. For example:

- Is there other training we should ask about?
- Should level of health care related experience serve as a threshold requirement, or simply be gathered as information available to parties for their consideration?
- Is there other experience that should be required as a threshold requirement?
- Is there other information that should be gathered on the application?

Please submit any comments to rulescoordinator@oic.wa.gov on or before August 30, 2019.

Thank you for your interest.