

§ 1373.20. Arbitration requirements

(a) If a plan uses arbitration to settle disputes with enrollees or subscribers, and does not use a professional dispute resolution organization independent of the plan that has a procedure for a rapid selection, or default appointment, of neutral arbitrators, the following requirements shall be met by the plan with respect to the arbitration of the disputes and shall not be subject to waiver:

(1) If the party seeking arbitration and the plan against which arbitration is sought, in cases or disputes requiring a single neutral arbitrator, are unable to select a neutral arbitrator within 30 days after service of a written demand requesting the designation, it shall be conclusively presumed that the agreed method of selection has failed and the method provided in Section 1281.6 of the Code of Civil Procedure may be utilized.

(2) In cases or disputes in which the parties have agreed to use a tripartite arbitration panel consisting of two party arbitrators and one neutral arbitrator, and the party arbitrators are unable to agree on the designation of a neutral arbitrator within 30 days after service of a written demand requesting the designation, it shall be conclusively presumed that the agreed method of selection has failed and the method provided in Section 1281.6 of the Code of Civil Procedure may be utilized.

(b) If a court reviewing a petition filed pursuant to Section 1373.19 or subdivision (a) finds that a party has engaged in dilatory conduct intended to cause delay in proceeding under the arbitration agreement, the court, by order, may award reasonable costs, including attorney fees, incurred in connection with the filing of the petition.

(c) If a plan uses arbitration to settle disputes with enrollees or subscribers, the following requirements shall be met with respect to extreme hardship cases:

(1) The plan contract shall contain a provision for the assumption of all or a portion of an enrollee's or subscriber's share of the fees and expenses of the neutral arbitrator in cases of extreme hardship.

(2) The plan shall disclose this provision to subscribers in any evidence of coverage issued or amended after August 1, 1997.

(3) The plan shall provide enrollees, upon request, with an application for relief under this subdivision, or information on how to obtain an application from the professional dispute resolution organization that will administer the arbitration process. If the plan uses a professional dispute resolution organization independent of the plan, the provision for assumption of the arbitration fees in cases of extreme hardship shall be established and administered by the dispute resolution organization.

(4) Approval or denial of the application shall be determined by either (A) a professional dispute resolution organization independent of the plan if the plan uses a professional dispute resolution organization, or (B) a neutral arbitrator who is not assigned to hear the underlying dispute, who has been selected pursuant to paragraph (1) of subdivision (a), and whose fees and expenses are paid for by the plan.

HISTORY:

Added Stats 1996 ch 1093 § 2 (SB 1660).