



AMERICAN
ARBITRATION
ASSOCIATION®

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

AAA: Working Together for Healthcare Dispute Resolution Success

FIRM LOGO - add

date

New AAA Healthcare Landing Page



Choosing AAA® for Healthcare Industry Disputes: Expertise, Specialization and Experience

Resolve your healthcare disputes fairly, efficiently, and cost-effectively. AAA offers a panel of seasoned professionals, specialized rules, and the case management expertise to find solutions that work for everyone. Contact us today and discover how we can help you get back to what matters most: delivering quality healthcare.



*Rules, HC Panel,
& Drafting ADR
Resources Available!*

Visit:



01.

Healthcare Data Trends

2023 B2B Commercial Case Filings*

11,553

Total Number of Cases Filed in 2023

2023 Total Claims

\$19,173,630,002

Large Case Median Claim:

\$1,498,653

Large Case Average Claim:

\$7,433,372

2023 Total Counterclaims

\$4,457,008,406

Large Case Median Counterclaim:

\$999,999

Large Case Average Counterclaim:

\$6,413,895

LARGEST CLAIM AMOUNTS BY INDUSTRY

	AMOUNT
Life Sciences	\$1 billion
Accounting	\$600 million
Energy	\$526 million
Construction	\$500 million
Technology	\$458 million
Entertainment	\$375 million
Transportation	\$284 million
Financial Services	\$244 million
Healthcare	\$213 million
Real Estate	\$200 million
Cannabis	\$155 million

0 200 M 400 M 600 M 800 M 1B

**based on 2023 case filings*



AAA Healthcare B2B Stats

(based on AAA 2022 & 2023 B2B cases filed)

735 Healthcare Cases Filed in 2022

2022 Total Claims
\$1,327,879,215

Median Claim:	Average Claim:	Largest Claim:
\$401,012	\$1,916,132	\$100,000,000

2022 Total Counterclaims
\$114,824,179

Median Counterclaim:	Average Counterclaim:	Largest Counterclaim:
\$500,000	\$1,946,173	\$20,000,000

897 Healthcare Cases Filed in 2023

2023 Total Claims
\$2,307,333,957

Median Claim:	Average Claim:	Largest Claim:
\$366,344	\$2,667,438	\$213,000,000

2023 Total Counterclaims
\$266,292,553

Median Counterclaim:	Average Counterclaim:	Largest Counterclaim:
\$519,742	\$4,034,736	\$90,000,000

- *Percentage of cases with counterclaims – 22%*
- *Percentage of cases that went to Award – 8 %*



Types of Healthcare Arbitrations Filed

(based on AAA 2023 B2B cases filed)

- Asset Purchase/Business Sale
- Outsourced Services
- Partnership/Shareholder/Joint Venture
- Pharmacy Benefit Management
- Payor Provider/Reimbursement**

**** 84% of Healthcare Arbitrations Filed**

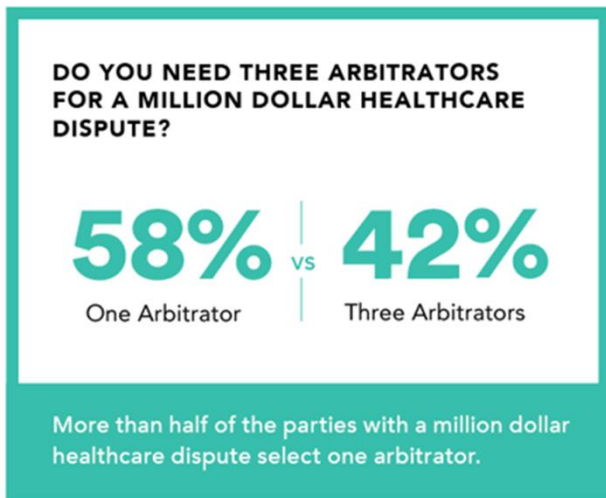


AAA Healthcare B2B Stats

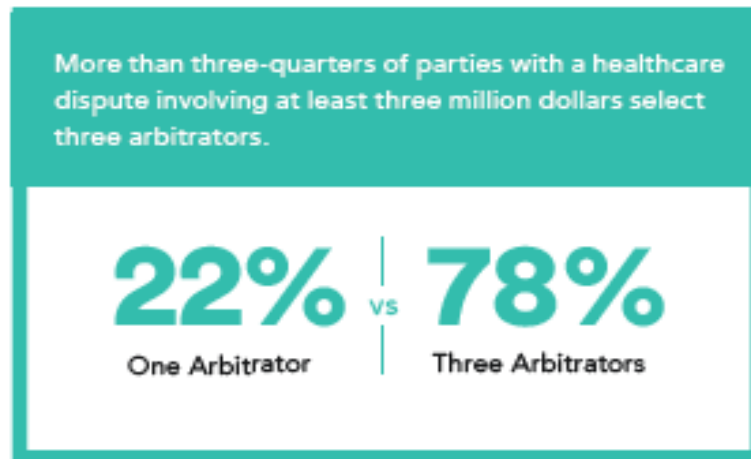
(based on 2022 & 2023 b2b cases filed)

One Arbitrator v. Panel of Three

2022



2023



Note: “Arbitration rules changed threshold for three arbitrators effective Sept. 2022.”



Healthcare arbitration time filing trend

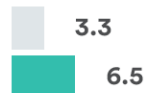
(based on 2023 b2b cases filed)



TIME TO AWARD (IN MONTHS)

AAA gets you to award much quicker than courts.

AAA Healthcare Cases Up to \$100k

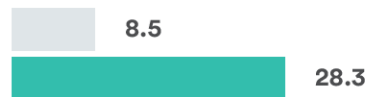


Quickest
Median

AAA Healthcare Cases claims over \$100k-\$999k



AAA Healthcare Cases with claims \$1 million and above



Time to Trial in U.S. District Court (Civil Cases)



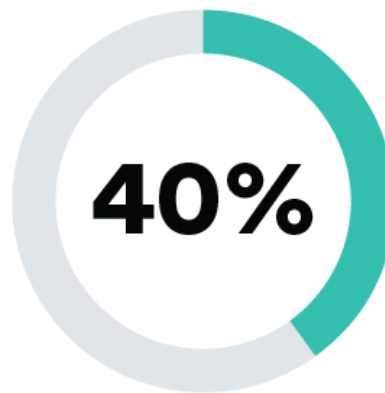
AAA National Healthcare Panel

AAA Healthcare Panel = 250

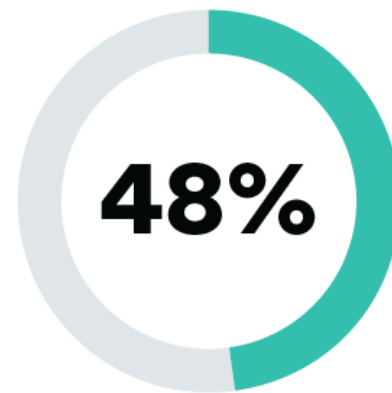
Last 10 years:

- 30% of time engaged in healthcare matters.
- Full time Arbitrators – 30% of appointments are healthcare cases.

**COMMITMENT
TO DIVERSITY**



DIVERSE PANEL



DIVERSE APPOINTMENTS



AAA Healthcare other B2B Stats (based on 2022 & 2023 b2b cases filed)



80%

of cases settle prior to award.



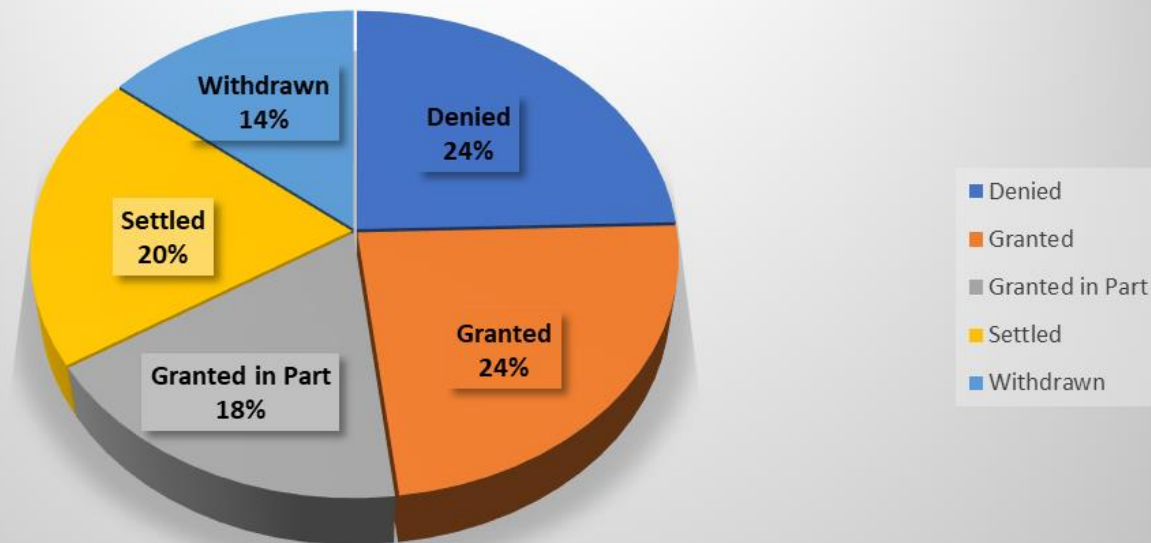
21%

of cases settle prior to incurring any
arbitrator compensation.



Healthcare Arbitration Emergency Relief Trend

Emergency Relief Outcomes for Healthcare Disputes
(based on 7 emergency relief matters resolved in 2023)



AAA Commercial B2B Emergency Motions Filed in 2023

EMERGENCY MOTIONS FILED WITH THE AAA-ICDR IN 2023

 **112**

of applications for Emergency Measure of Protection filed

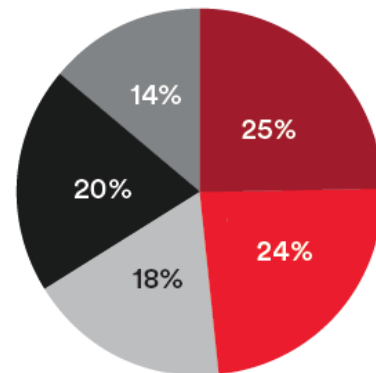
 **106**

resolved

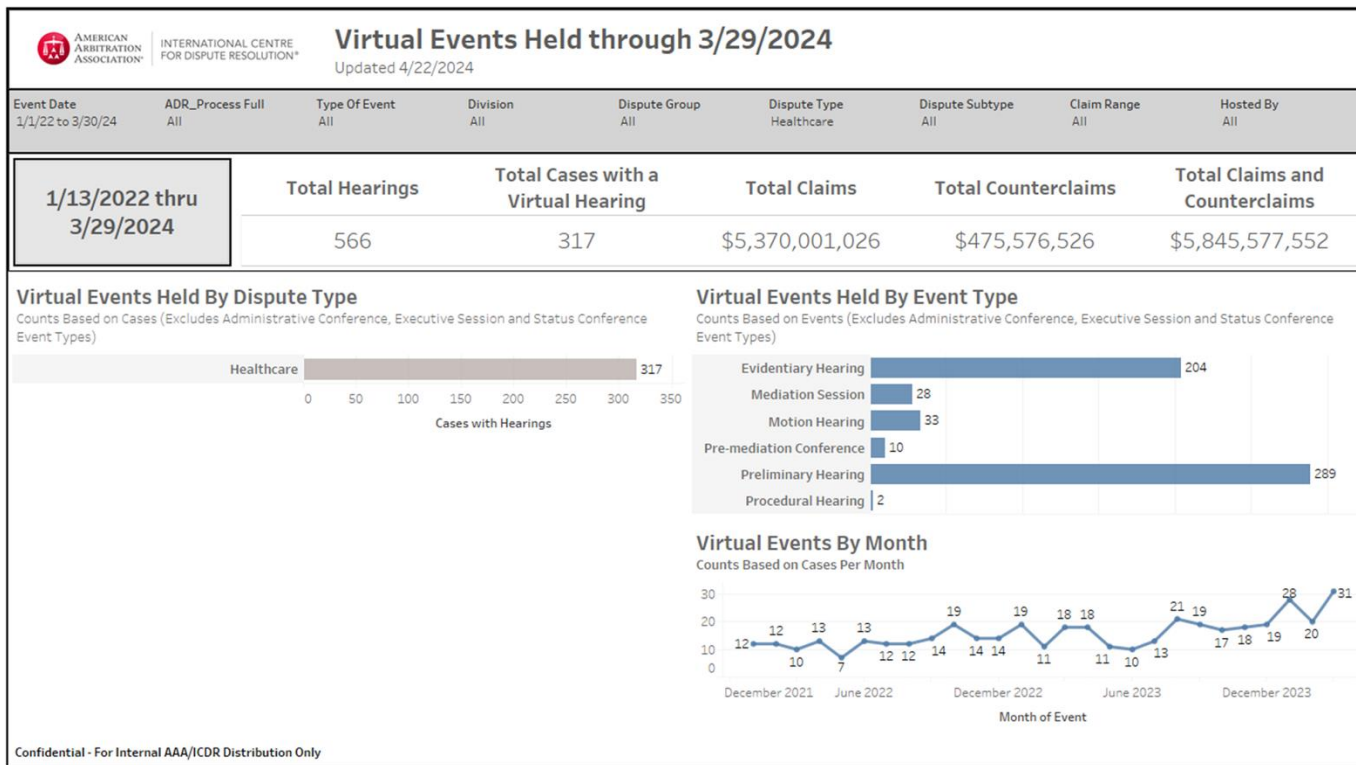
 **6**

pending as of 1/31/24

- Denied
- Granted
- Granted in Part
- Settled
- Withdrawn



Still Going Virtual



Appellate Arbitration Applications

28% Settled

72% went to decision

50% of awards were affirmed/adopted

63% were decided on documents alone

Appellate Rule Outcomes

(based on commercial/construction
matters closed in 2022 and through
August 2023)



02. Healthcare Case Management

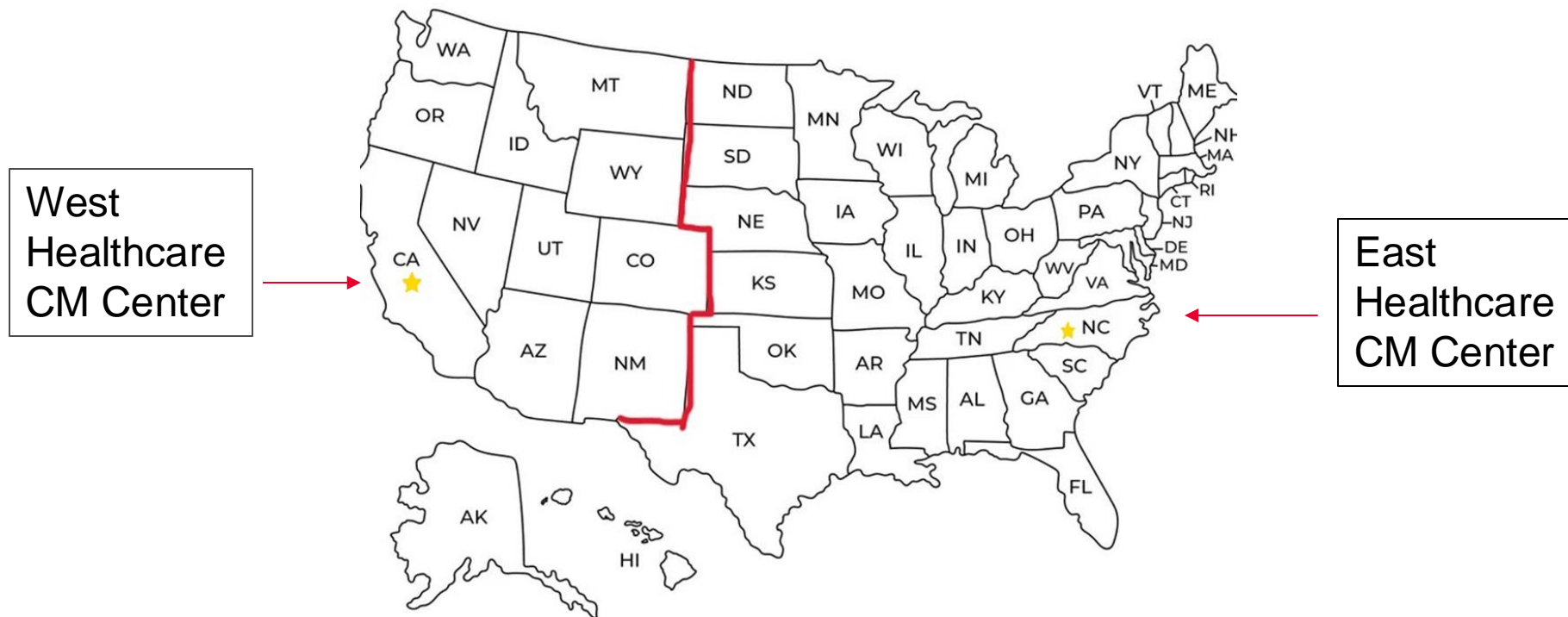
2024 AAA Healthcare Case Management

East/West Healthcare Cases Services

- Case Management Expertise
- Familiar with Arbitrators & Counsel
- Filers are repeat so usually same counsel for Payor Provider Cases
- Understand Arbitrator List for Active Cases
- Consistent Case Management
- Consistent application for arbitration rules



2024 AAA Healthcare Case Management Consolidation



AAA Healthcare Services Overview

Why AAA? **Full Case Administration**

- Filing to Award
- AAA paid ONLY for Filing and Final fees
- No share of arbitrator compensation
- Streamlined Panel Options
- Administrative Review Council – LCC
- Locale, Filing requirements, Arbitrator challenges
- National Healthcare Panel (Not required to be Full time Arbitrators)
- Arbitrator Selection - CHOICE



AAA Healthcare Services Overview (cont'd)

A La Carte Services

- Case Financial Administrative Services
- eDiscovery Special Master
- Arbitrator Select Services-List only or Appointment Services
- Arbitrator Challenges – Non Administered cases
- Judicial Settlement Conference
- Optional Appellate Arbitration Rules
- Hearing Room Rental
- Virtual Hearing Managed Services



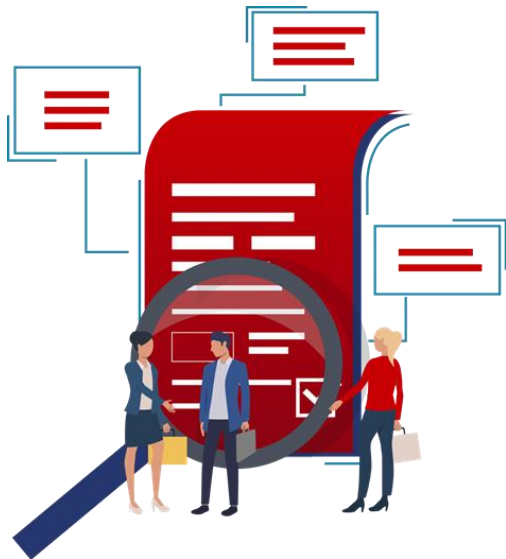
More details at:
www.adr.org/alacarteservices



03.

AAA Administrative Review Council (ARC)

AAA's Administrative Review Council (ARC)



What is ARC?

Executive Level administrative decision-making authority created to resolve certain administrative issues in AAA's Large Complex domestic cases.

Issues Reviewed by ARC:

- Objections to Arbitrators
- Locale Determinations
- Whether the filing requirements contained in the AAA rules have been met

Council Guidelines

Council Review Standards

More information about ARC at: www.adr.org/arc



04. **ClauseBuilder® and ClauseBuilder AI (Beta)**

www.clausebuilder.org

- FREE wizard that walks users through step-by-step
- Choose which options to include or skip



ClauseBuilder AI

<https://clausebuilder.ai/>



05. AAA Panel Recruitment

AAA Panel Recruitment

- Criteria/Qualifications – avail at <https://www.adr.org/aaa-panel>
- Prefer industry expertise
- Familiarity with Mediation and or Arbitration

Considerations:

- Start early – don't wait for retirement
- Advocacy experience is a plus
- Stay abreast with arbitration procedures, rules



06. **AAA Innovations & Technologies**

AAA Innovation & Technologies

- AAAiLab
- Deposition and Hearing Services
- CaseShield by AAA-ICDR
- ClauseBuilder AI
- AAA-ICDR Mobile Apps
- Arbitrator Search Platform
- Online Fee Calculator
- ODR Platform



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INNOVATION



07.

AAA Healthcare Payor Provider Arbitration Rules Overview

Healthcare Payor Provider Rules, October 1, 2022

Payor-Provider Rules

- Various tracks & amount in controversy does not determine track
- A single arbitrator is the default
- National Healthcare Roster of arbitrators
- Discovery and special initial disclosures
- Rules encourage efficient and early resolution where possible



Healthcare Payor Provider Rules, October 1, 2022

R-1 (d) Administrative Track Designation (No language change)

Track 1- Desk/Telephonic (D-1 – D-6)

Track 2 – Regular Track (R-1 – R-62)

Track 3 – Complex Track (C-1 – C-5)

Default track is Regular Track.

Parties choose the track and not driven by monetary claim.



Healthcare Payor Provider Rules, October 1, 2022

R-13 Number of Arbitrators (No language change to (a))

- (a) Unless the parties agree otherwise, the disputes will be heard and determined by one arbitrator regardless of the amount in controversy.
- (b) Clarify the terms such as “the arbitrator”, “an arbitrator” or the “arbitrators” in the arbitration agreement, without further specifying the number of arbitrators, shall not be deemed by the AAA to reflect an agreement as to the number of arbitrators.



Healthcare Payor Provider Rules, October 1, 2022

Appointment from National Healthcare Roster Rule R-14 (former Rule R-13)

- In contrast to the Commercial Rules, this rule specifies the AAA provide arbitrator list drawn from the National Healthcare Roster
- Additionally, added language to R-14 (c) authorizing the AAA to limit the number of strikes



Healthcare Payor Provider Rules, October 1, 2022

R-22 Meet and Confer, Preliminary Hearing and Scheduling Order

- This rule revision adds the requirement that the parties meet and confer on the topics outlined in R-22 (d) - (j) prior to the preliminary hearing.
- **Rule 22** requires parties to meet and confer at least 5 days before the preliminary hearing and encourages each party with affirmative claims to share a spreadsheet of disputed claims prior to the meet and confer.
- **Rule 22** includes a list of special payor-provider dispute topics to be discussed with the arbitrator at the preliminary hearing, and recent rule amendment added possible use of statistical sampling as a discussion topic.



Healthcare Payor Provider Rules, October 1, 2022

R-23 Discovery (No Language Change)

Desk/Telephonic Track – D-4

- Absent extraordinary circumstances and a finding of good cause by the arbitrator that depositions or other methods of discovery are necessary to prevent an unfair or unjust result, no additional discovery shall occur, and the dispute shall be resolved based on the documents and briefs submitted.

Regular Track – R-23

- The parties shall each be limited to one deposition unless otherwise agreed to by the parties or ordered by the Arbitrator for good cause shown.

Complex Track - C-4

- The parties shall each be limited to two depositions unless otherwise agreed to by the parties or ordered by the Arbitrator for good cause shown.



Healthcare Payor Provider Rules, October 1, 2022

New Rules and Major Rule Amendments

1. Consolidation and Joinder
2. Appointment from National Healthcare Roster
3. Administrative Review Council
4. Discovery
5. Cybersecurity, Privacy and Data Protection





Michelle Skipper

Vice President
American Arbitration Association

Charlotte, NC
704-643-8605
SkipperM@adr.org





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