

PAMS ARBITRATION RULES

1. Initiation.

(a) Arbitration is initiated by the service, within the applicable time period or statute of limitations period, of a written demand for arbitration, on the respondent(s). A copy of the demand shall also be filed with PAMS within 5 days of service of the demand.

(b) The demand (which may be made through the use of PAMS' form) shall state the name and address of the claimant(s), identify the respondent(s), and outline the factual basis of the claim, such as the alleged negligence or wrongdoing of the respondent(s).

(c) Within 20 days following service of the demand, the respondent(s) shall file a written response to the demand with PAMS and serve it upon the claimant. The response shall identify any defenses then known to the respondent(s). If a counterclaim is asserted in the response, it shall identify the counterclaim-respondent(s) and outline the factual basis of the claim.

(d) If no response is filed within the 20 day period, the respondent(s) shall be deemed to have denied the claim.

(e) Parties to an existing dispute may initiate an arbitration under these rules by filing with PAMS a written submission to arbitrate, signed by the parties, which sets forth the nature and scope of the dispute.

2. Selection of Arbitrators.

(a) Unless otherwise specified by the parties' agreement or by statute, the proceeding shall be heard and determined by one arbitrator.

(b) PAMS shall send to each party an identical list of five arbitrator candidates, together with a brief biographical statement on each candidate. A party may strike from the list any name which is unacceptable and shall number the remaining names in order of preference. Following the return by the parties of their respective lists, the first mutually agreeable candidate shall be invited to serve. In the event that there is no mutually agreeable candidate from the first list, a second list shall be sent to each party.

(c) If the parties are then still unable to mutually agree on the selection of the arbitrator(s), PAMS shall appoint the arbitrator(s) needed to complete the panel. In the event that one or more arbitrators is unable to continue to serve as such, PAMS may declare the position vacant and such vacancy shall be filled in accordance with the applicable provisions of these rules.

3. Disclosure. Each arbitrator candidate shall complete and provide to PAMS a personal disclosure statement under oath. In addition to other relevant information, the disclosure statement shall disclose any personal acquaintance with any of the parties, or their counsel, and the nature of the acquaintance. If this statement reveals facts which suggest the possibility of partiality, PAMS shall communicate those facts to the parties if that person is proposed to the parties as an arbitrator candidate.

4. Challenge for Bias.

(a) Any party may propound reasonable questions to an arbitrator candidate within 10 days of receipt of the list containing the candidate's name. Such questions shall be propounded through PAMS, and the candidate shall respond promptly to PAMS.

(b) A party may challenge the appointment of an arbitrator on the grounds of lack of objectivity. Such challenge shall be determined by PAMS, which determination shall be conclusive.

5. Communication with Arbitrators.

(a) A party shall not communicate directly or indirectly with a candidate, except through PAMS, at any time following the filing of the demand for arbitration. Any candidate who is aware of such communication shall immediately notify PAMS.

(b) Once the arbitration panel is selected, no party shall, directly or indirectly, communicate with the arbitrator(s) concerning the arbitration without the consent of all other parties. All filings, motions or requests shall be made through PAMS.

6. Party selected arbitrators.

(a) When the parties have agreed that each party shall name one arbitrator to the arbitration panel, the parties may further agree that each such arbitrator may be non-neutral. In that event, the provisions of section 5 above do not apply to communication with non-neutral arbitrators.

(b) If a party fails to timely name an arbitrator to the panel, PAMS shall make such appointment.

7. Discovery.

(a) Discovery, such as through depositions, interrogatories and requests to produce documents, shall not be permitted unless: (1) the parties stipulate to allow such discovery; or, (2) the arbitrator(s) authorize the discovery upon good cause shown, which shall be liberally granted if necessary to more adequately present or defend a claim.

(b) In proceedings under the Guam Mandatory Medical Malpractice Act (10 Guam Code Annotated section 10100, et seq.), the parties shall comply with the disclosure requirements set forth in sub-sections 10119 and 10120 of the Act. In all other proceedings, the arbitrator shall require the parties to exchange lists of witnesses to be called, and documents to be introduced as exhibits, at the hearing at least 10 business days before the hearing.

8. Pre-hearing Conference.

(a) The arbitrator(s) may conduct a pre-hearing conference with the parties, which may be conducted by telephone, videoconferencing or other such method as determined by the arbitrator(s). At the pre-hearing conference, the subjects of discussion may include, but are not limited to, scheduling, clarification of issues, and other preliminary issues.

(b) In proceedings under the Guam Mandatory Medical Malpractice Act (10 Guam Code Annotated section 10100, et seq.), the pre-hearing conference shall be conducted in compliance with the requirements set forth in sub-section 10122 of the Act.

9. Hearing.

(a) The arbitrator, or a majority of an arbitration panel, shall determine the date, time and place of the hearing.

(b) The arbitration hearing shall be informal, and the relevance and materiality of the evidence offered shall be determined by the arbitrator(s).

(c) Testimony of witnesses at the hearing shall be under oath. The arbitrator(s) may receive and consider evidence submitted by affidavit, but shall give appropriate weight to any objections made thereto.

(d) In the event that one or more members of an arbitration panel is unable to continue to so serve after the hearing has begun, the remaining arbitrator(s) may proceed with the hearing, unless the parties agree otherwise. If a substitute arbitrator is appointed, the arbitrators shall determine whether it is necessary to repeat any part of the prior hearing.

(e) In proceedings under the Guam Mandatory Medical Malpractice Act (10 Guam Code Annotated section 10100, et seq.), the hearing shall be conducted in compliance with the requirements set forth in sub-section 10118 of the Act.

10. Briefing.

(a) In proceedings under the Guam Mandatory Medical Malpractice Act (10 Guam Code Annotated section 10100, et seq.), briefing shall be conducted in compliance with the requirements set forth in sub-section 10123 of the Act.

(b) In all other proceedings the determination as to the appropriateness and timing of pre-hearing, or post-hearing, briefs shall be left to the discretion of the arbitrator(s).

11. Attendance at hearing.

(a) Parties to the arbitration and their counsel are entitled to attend the hearing. Non-party witnesses may be excluded by either party upon request to the arbitrator(s). The arbitrator(s) may exclude any other person from the hearing except as required by law or these rules.

(b) The hearing may proceed in the absence of any party who, after due notice, fails to be present. An award shall not be made solely upon the default of a party, and the attending party shall be required to submit evidence.

(c) Any party may be represented by counsel. A party may appear without counsel, and in that event, PAMS shall advise the party of the right, and advisability, of retaining counsel in the proceeding.

12. Adjournment. The Hearing may be adjourned by the arbitrator(s) upon a showing of good cause. An appropriate fee may be charged if the arbitrator(s) determine that a party has wrongfully caused an adjournment to take place.

13. Waiver. Any party who proceeds with arbitration after knowledge that any provision of these rules has not been complied with, and fails to state his objection(s) thereto in writing, shall be deemed to have waived his right to object.

14. Timeliness of Award. The award shall be issued by the arbitrator(s), unless otherwise agreed to by the parties, within 20 business days from the close of the hearing. However, failure of the award to be timely issued shall not be grounds for vacating the award unless the party seeking to vacate the award can demonstrate serious prejudice due to the untimeliness of the award.

15. Award.

(a) In proceedings under the Guam Mandatory Medical Malpractice Act (10 Guam Code Annotated section 10100, seq.), the award shall be in compliance with the requirements set forth in sub-sections 10130, 10131 10133 and 10134 of the Act.

(b) In all other proceedings, the arbitrator(s) may grant relief deemed just and equitable within the scope of the parties' agreement to arbitrate, including, but not limited to the award of costs and expenses of the proceeding, interest and, if authorized under the parties' agreement or by applicable law, attorneys fees incurred.

16. Delivery of Award. The award shall be deemed delivered upon mailing of the award (or a true copy thereof) addressed to the parties (or their respective attorneys) at their last known address, or through personal service of the award on the party or the party's attorney.

17. Post-award proceedings.

(a) Neither PAMS or any arbitrator in a proceeding under these rules shall be deemed a necessary or proper party or witness in any judicial proceedings related to the arbitration proceeding.

(b) Neither PAMS or any arbitrator in a proceeding under these rules shall be liable in any action for damages, injunctive or any other form of relief for any act or omission related to the arbitration proceeding.

18. Expenses.

(a) PAMS may require the parties to deposit in advance such sums as PAMS determines is necessary, for the expenses of the arbitration proceeding, including, but not limited to the arbitrator(s)' fee and PAMS fee.

(b) In the event that one or more parties does not timely make such deposit, PAMS may order the suspension or termination of the proceeding.