



NO-FAULT NOTES: News from the AAA®'s Minnesota No-Fault Office

Welcome to the latest edition of Minnesota No-Fault Newsletter.

COVID-19 Update

In-Person Hearings

As stay-at-home order restrictions loosen, case participants may choose to proceed with in-person hearings. The use of in-person hearings is at the discretion of the case participants. Arbitrators who have concerns about appearing in-person for a particular case should contact the case administrator to discuss alternative hearing methods.

Please note that, if you intend to hold hearings in your office and there are requirements (of your office or your building) that parties should be aware of, such as the use of PPE or limitations on the number of guests, please notify Kelly Baker at KellyBaker@adr.org. We will include this information on your account so that any such requirements will appear on the Notice of Hearing.

Virtual/Remote Hearings

The American Arbitration Association® (AAA) will continue to provide support for those who wish to use alternative hearing arrangements, including videoconferencing, teleconferencing, and documents-only procedures.

If you would like to use an alternative hearing method for an upcoming hearing, please notify the case administrator.

Videoconferencing Resources

The AAA has published guidance on how to utilize Zoom to optimize the virtual hearing experience. You may access this information using the following link:

[AAA-ICDR® Virtual Hearing Guide for Arbitrators and Parties Utilizing Zoom](#)

In addition, if your videoconference will proceed by Zoom, case participants are encouraged to prepare for the hearing by viewing platform-specific resources. Examples of these resources are as follows:

[Joining a Zoom Meeting](#)

[Joining and Configuring Audio and Video](#)

AAA Hearing Rooms

The AAA remains active and operational, but no hearings will take place in the AAA hearing facilities until at least September 1, 2020. If a hearing currently is scheduled to take place before then at the AAA's offices, the case administrator will contact the case participants to explore alternatives.



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Recent Rule Changes

Various changes to the Minnesota Supreme Court's Minnesota Rules of No-Fault Arbitration Procedure became effective on February 1, 2020.

Rule 12. Discovery, Motions, and Applications / Rule 40. Arbitrator, Motion, and Application Fees

The most significant changes relate to motion practice. More specifically, the rules now include new procedures for filing and responding to motions, as well as new motion fees.

The AAA has developed Motion Practice Protocols that will be used to implement the new rule changes. To view the Protocols, please visit the AAA's Minnesota No-Fault webpage at www.adr.org/mnnofault.

Rule 10. Five-Year Limitation on Arbitrator Service

Pursuant to the February 1, 2020 rule changes, Rule 10 has been amended to eliminate the five-year limitation on arbitrator service for those who retire from law practice. There is still a five-year limitation for those arbitrators whose practice has changed and who no longer qualify under Rule 10(a).

The rules, as amended, are available on the AAA's Minnesota No-Fault webpage at www.adr.org/mnnofault.

Upcoming Rule Changes

The following rule changes become effective September 1, 2020:

Rule 10. Qualification of Arbitrator and Disclosure Procedure

Under Rule 10(a)(2), an arbitrator will now qualify to serve on the Minnesota No-Fault Panel if at least one-quarter of their practice, based on a five-year average, involves auto insurance claims or, for an attorney not actively representing clients, at least one-quarter of an ADR practice, based on a five-year average, involves motor vehicle claims or no-fault claims. The rule previously required that arbitrator's maintain one-third of their practice in auto insurance claims/no-fault matters annually.

Under Rule 10(a)(4), arbitrators will now be required to complete three CLE hours on no-fault issues within their reporting period, rather than on an annual basis. Rule 10(c)(3) has also been changed to reflect the same requirement for those who certify under a change of practice or as retired.

ACH Payments

The AAA now offers the option to receive arbitrator compensation by ACH payments, which means that we can directly deposit your compensation into your or your organization's bank account so that you no longer need to wait for a paper check. The AAA uses the ShareFile platform to ensure that personal information remains secure.

If you are interested in using this option, please contact Krista Peach at KristaPeach@adr.org or by phone at (612) 278-5114.



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Declining Due to Conflicts

When it comes to arbitrators' disclosures, the AAA always advises: "when in doubt, disclose." However, at times it would be more appropriate to decline the case altogether, as some conflicts simply cannot be disclosed away.

In fact, Rule 10(b) of the Minnesota Rules of No-Fault Arbitration Procedure states, "[n]o person shall serve as an arbitrator in any arbitration in which he or she has a financial or personal conflict of interest." This is an absolute prohibition. There is no room for an arbitrator to exercise discretion.

When considering whether to decline a case or accept it while making disclosures, the arbitrator should consider the following:

- Whether the potential conflict is continuing, intermittent, or a singular occurrence;
- Whether it is recent or distant in time;
- The nature of the relationship and the frequency of contact;
- Whether or not the conflict is substantial; and
- Whether the conflict is direct or indirect.

Pursuant to the **Preamble of the Standards of Conduct for Minnesota No-Fault Arbitrators**, No-fault arbitrators, like judges, have the power to decide cases. Therefore, arbitrators undertake serious responsibilities to the public, as well as to the parties. In order for the system to operate effectively, the public must have the utmost confidence in the arbitration process and the arbitrators who serve on the No-fault Panel.

Arbitrator Administration Tips

List of Upcoming Hearings

You can print or download a list of your upcoming hearings using AAA Panelist eCenter®. To generate the list, navigate to "Hearings & Conferences Calendar" in the sidebar on the left side of the page. Then click "Print Event List." Last, enter a timeframe for which you would like to view your hearings and click "OK."

Scheduling

To avoid being scheduled for back-to-back hearings on the same day, we recommend that you cross off all the 12:30 p.m. time slots using the "Recurring" feature when submitting your unavailability online.

Feedback

What would you like to see featured in this newsletter?

Please contact Kelly Baker at KellyBaker@adr.org or Kristin Folsom at KristinFolsom@adr.org.