

NECA ADR Program Overview for Contractors

The brochure entitled *Your Collectively Bargained Workers' Compensation Alternative Dispute Resolution (ADR) Program*, available at NECA Chapters and www.NECAWEST.com informs employees of the NECA ADR program's benefits and processes. This overview is written for NECA Chapter Members.

Alternative Dispute Resolution (ADR) was developed by employers and unions in the early 1990s. ADR legislation creates a legal alternative to the statutory workers' compensation (WC) system, sometimes called a "carve out" program. California Labor Code Section 3201.5 (effective 1993) permits a union and a group of construction industry employers to collectively bargain and create an alternative to statutory worker's compensation using an ADR program.

Recognizing the success achieved by construction employers since 1993 using ADR, state legislators agreed to expand ADR programs to non-construction industries. NECA West established its ADR program in 1994, known as the NECA/IBEW Workers' Compensation Trust ADR Program (NECA ADR Program).

Objectives & Benefits of NECA ADR Program

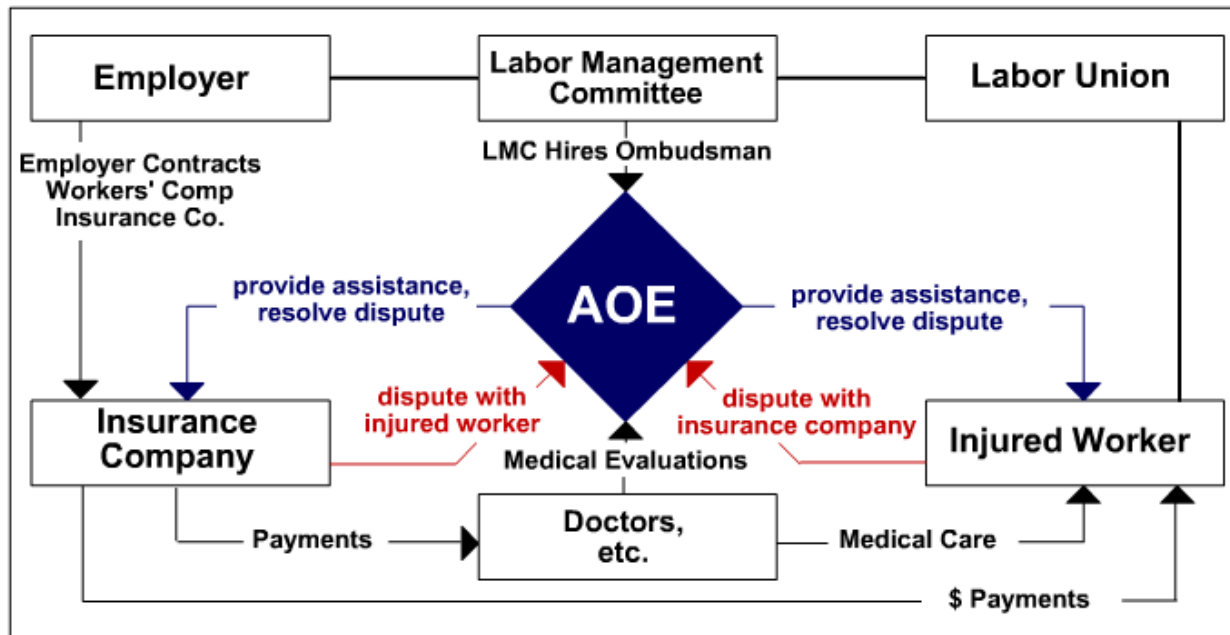
- Reduce WC claim costs
- Reduce employers' WC insurance costs
- Improve medical care for employees
- Shorten claim cycle times
- Reduce litigation
- Faster return to work
- Promote safety
- Promote labor-management cooperation
- Create more jobs for union members

The philosophy behind ADR is simple. Rather than viewing an injured worker as an expense, the worker is considered an important asset to the business and our industry, someone who needs efficient, quality care to expedite his/her healthy recovery and ability to return to work. ADR leads to lower medical expenses by providing the worker an experienced Ombudsman at no cost to the worker, to help manage the complicated processes associated with workers compensation. This avoids immediate litigation which can delay and distract the focus on obtaining benefits for injured workers quickly. The goal is to manage costs effectively and get injured workers relief quickly. This reduces the insurer's claim costs over time, and ultimately those savings are passed to the employer.

NECA ADR Trust

The NECA ADR Program is administered by a balanced Board of Trustees comprised of six members. Like the NECA/IBEW health and welfare and pension plans, the Trustees are appointed by the IBEW and NECA. Injured workers retain all their rights while participating in the NECA ADR Program.

Among other things, the Board of Trustees approves the lists of doctors and other vendors which can provide services to injured IBEW members. The Board hires the Ombudsman, mediators, and arbitrators to assist in answering injured workers' questions and resolve disputes. The Ombudsman dispenses information to injured workers to assist them in resolving their claims equitably, allowing for early resolution of disputes between the injured workers and the insurance companies. American Ombudsman Enterprises, Inc. (AOE) is the selected Ombudsman for the NECA ADR Program.



How does the NECA ADR Program differ from the State system?

The NECA ADR Program is a court system with its own jurisdiction. All benefits are established by law and are the same in the NECA ADR Program and in the State system. The same law is applied at arbitration hearings.

For example, if there is a dispute regarding benefits, the injured employee contacts the Ombudsman. The Ombudsman then tries to resolve the dispute with the insurance carrier. If that is unsuccessful, the Ombudsman will, after reviewing pertinent information, conduct a telephone conference (mediation conference) and try to resolve the dispute. Any

suggested resolution need not be accepted by either party at the time of the mediation. If the Mediator is unsuccessful then either party can request a hearing before an arbitrator (typically a retired California workers' compensation judge) to resolve the dispute. Direct attorney participation is allowed at arbitration. All discovery rights provided in the California Labor Code apply. Furthermore, the decision of the arbitrator is appealable, as in the State system, to the WC Appeals Board.

Success of the NECA ADR Program

Since the inception of the NECA ADR Program in 1994, thousands of disputed WC cases have resolved at the Ombudsman stage of the ADR Process at the rate of 93.6% (without the need for Mediation or Arbitration). Of the remaining 6.4% disputed cases that moved through the Mediation stage of the ADR Process, 38.6% resolved at Mediation without reaching the Arbitration stage. This leaves only 3.9% of all disputed cases that reached the Arbitration stage to be litigated. **Thus, the litigation avoidance rate for the NECA ADR Program currently stands at 96.1%.**

Avoiding over 96% of all litigation on disputed WC claims reduces the overall cost of claims, and thus over time should reduce the cost of WC insurance to the contractor.

About AOE

American Ombudsman Enterprises (AOE) is the Ombudsman for the NECA ADR Program. The key principals for AOE are:

Hon. Richard A. Robyn, Workers' Compensation Judge, Retired.

James R. Robyn, Workers' Compensation Claims Professional (WCCP).

Dr. Richard A. Robyn, Jr., PhD, MSIT, MBA, MEd, Associate in Risk Management (ARM), Certified Fraud Examiner (CFE), Certified Professional in Fraud Identification (CPFI), Construction Risk and Insurance Specialist (CRIS), Workers' Compensation Claims Professional (WCCP).

Steps to becoming an ADR participant

- 1) Be a member in good standing with NECA
- 2) Contact your insurance agent to (a) find a carrier that will agree to handle claims within the ADR process; or (b) use the State Fund and ask for the ADR program
- 3) Bind the policy and have the agent or carrier sign the Memorandum of Understanding (MOU)
- 4) Counter sign the MOU and Participation Agreement.
- 5) Email both agreements to the NECA West Administrator, along with a copy of the WC Declaration Page that shows your annual Standard Premium and X Mod.
- 6) You will receive your first quarterly billing within 30 days and quarterly thereafter.

*Steps 3-6 will be completed annually on renewal.

The Administrator (contact information below) can provide contractors with the documents referenced above.

Two Ways to Participate in the NECA ADR Program

- 1. Contractors can participate through a commercial insurance carrier. Some of the participating carriers include:**

Zurich North America

Debbie Haddox, Construction Account Executive

W: (916) 204-1276

F: [\(866\) 743-1514](tel:8667431514)

Email: debbie.haddox@zurichna.com

The Hartford Financial Services Group, Inc

Scott Schultz, Construction Director Underwriting & Sales

(571) 357-6678

Email: scott.schultz@thehartford.com

Old Republic

Jose Granados, Western Regional Underwriting

(626) 683-5279

j.granados@orcig.com

- 2. Contractors can also participate through the State Fund (SCIF).**

State Compensation Insurance Fund

Justyne T. Phi, ADR Underwriting Manager

jtphi@scif.com

(707) 880-1799

Please contact your agent or the carrier or SCIF directly to discuss participation.

Contact Information

Ombudsman:

NECA/IBEW WC Trust ADR Program

www.adrprogram.com/ombudsman

The Ombudsman can answer questions about the process of resolving a disputed WC claim.

Attorney:

Lois H Chang
Neyhart, Anderson, Flynn & Grosboll APC
Office: 415-677-9440
lchang@neyhartlaw.com

The attorney can answer questions that an employee's attorney may have about the validity of the ADR process in the State of California.

Administrator:

Karl Huish
NECA West Safety Group Administrator
NECA/IBEW Workers Compensation Trust Administrator
1635 N. Greenfield Road, Suite 115
Mesa, AZ 85205
Email: info@necawest.com

The administrator can answer questions about how contractors can participate in the NECA ADR Program.

Website:

www.necawest.com