

# What is Mediation?

Mediation is a fair and efficient process where a neutral third party helps you resolve disputes by reaching a voluntary, negotiated agreement in writing.

Mediation is a form of Alternative Dispute Resolution (ADR) that is offered as an alternative to the traditional litigation process.

The OID Consumer Assistance Division initiates the E.A.G.L.E. Program when the consumer and the insurer are unable to reach an agreement. E.A.G.L.E. stands for Ending Arguments Gently, Legally and Economically.

The mediator does not represent either of the parties involved; rather, he or she is there to advocate settlement.

If a negotiated settlement cannot be reached by the parties, the mediation is terminated and the parties maintain the option of litigating their dispute.

## Is Mediation Right for Me?

Try to answer the following questions:

Are you both willing to try mediation?

Do you both want to make your own decisions?

If you said yes to the questions above, then mediation might work for you.

## What to expect during Mediation

### Who initiates mediation?

The Insurance Department may offer mediation when the consumer and the insurer are unable to reach an agreement, or a consumer or insurer may request the Department to assist with scheduling a mediation session to which they have already agreed.

### Who will be present?

All parties to the dispute who have settlement authority (including the claimant and a representative of the insurer) and a neutral mediator.

### Who is the mediator?

A neutral third party who has been trained by the Oklahoma Supreme Court.

## Advantages of Mediation

### Mediation is free and avoids costly litigation fees

#### Mediation is fair and neutral

- Parties have equal say in the process and decide settlement terms, not the mediator.
- There is no determination of guilt or innocence in the process.

#### Mediation is confidential

- The mediator may not disclose facts or statements made by the parties during the mediation (12 OS 1805).
- The parties cannot discuss facts learned during mediation at trial if mediation is unsuccessful.

#### Proceedings are informal and flexible

For example, mediation can be conducted via conference call.

### Statute of Limitations may be extended (12 OS 1806)

#### Design your own solution

- Parties to the dispute maintain choice and control over the outcome.
- A neutral third party assists the parties in reaching a voluntary, mutually beneficial resolution.
- Mediation can resolve all issues important to the parties, not just the underlying legal dispute.
- Non-legal remedies are available, such as deciding how the amount of damages will be determined.

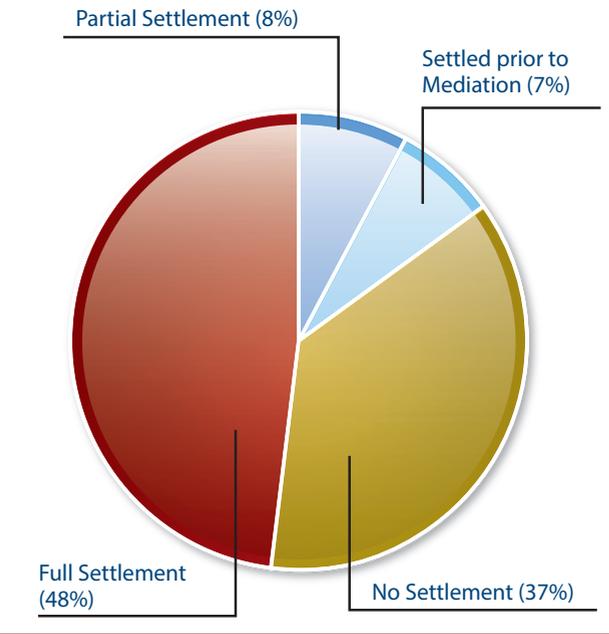
#### Mediation saves time

- Mediation usually occurs early in the process, and many mediations are completed in one meeting.

## Disadvantages of Mediation

- Parties may still have to litigate the dispute if they do not resolve all issues.
- The mediation agreement does not set binding precedent for future disputes.

**EAGLE Mediation Program  
Track Record (1999-2008)**



**? Did you know?**

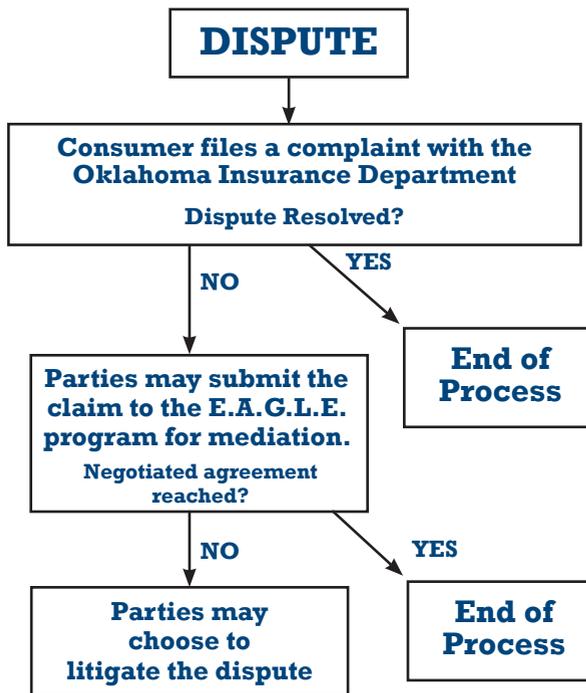
**Oklahoma’s E.A.G.L.E. Mediation program has served as a model for other programs.**

*The Oklahoma Department created this program following the 1999 tornado disaster. The E.A.G.L.E. program uses mediators trained by the Oklahoma Supreme Court to help unhappy consumers and insurance companies work toward an agreement that puts their conflict to rest. The goal is to get disputes resolved before they get out of control, and before the parties have abandoned disputed issues to their respective attorneys. It has been highly praised as an efficient mechanism for resolving claims disputes between policyholders and companies.*

**—Testimony by Kansas Insurance Commissioner Kathleen Sebelius before the United States House of Representatives Committee on Financial Services September 26, 2001**



**The Mediation Process**



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**Ending Arguments Gently, Legally and Economically through Mediation**



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