

BEFORE THE
DEPARTMENT OF MANAGED HEALTH CARE
STATE OF CALIFORNIA

In the Matter of the Application for an
Advocacy Award of:

Disability Rights Education and Defense
Fund,
Applicant.

**DECISION GRANTING AWARD OF
ADVOCACY FEES TO DISABILITY
RIGHTS EDUCATION AND DEFENSE
FUND, FOR SUBSTANTIAL
CONTRIBUTION TO HEALTH EQUITY
AND QUALITY COMMITTEE.**

I. SUMMARY

Disability Rights Education and Defense Fund (APPLICANT) submitted an Application for an Advocacy Award (Application) for its participation in the Department of Managed Health Care's (Department) Health Equity and Quality Committee (HEQC). The Department designated Ali Thodas as the Hearing Officer. The Department finds that APPLICANT made a substantial contribution to the HEQC and awards APPLICANT \$41,243.00.

II. BACKGROUND OF CONSUMER PARTICIPATION PROGRAM

The Consumer Participation Program ("CPP") allows for the award of reasonable advocacy and witness fees to any person or organization that (1) represents the interests of consumers in a proceeding and (2) makes a substantial contribution to the Department in its deliberations regarding the proceeding.¹

III. REQUIREMENTS FOR AWARDS OF ADVOCACY AND WITNESS FEES

¹ Cal. Code Regs., tit. 28, § 1010, subd. (a).

A. Petition to Participate

On February 20, 2023, APPLICANT submitted to the Department its Petition to Participate (Petition). Although the Petition was not timely, the Department waived the time requirements based on extenuating circumstances submitted by the APPLICANT and because the Department found that it was in the public interest and not detrimental consumers to do so.² On April 5, 2023, the Department approved APPLICANT's Petition. APPLICANT certified that the information in the Petition remains true and accurate and it is therefore not required to submit an additional Petition for this Proceeding.³

B. Application for Award of Advocacy Fees

An Application for an Advocacy Award must be submitted no later than sixty (60) days following the effective date of a decision. On December 21, 2022, the Department selected Health Equity and Quality Measures (HEQMs) based on the collaborative effort of the HEQC. These measures were outlined in an All-Plan Letter (APL) 22-028 dated December 21, 2022, which instructs plans which health care services must be measured and stratified by certain criteria such as race and ethnicity. The effective date of the APL is the date it was issued, December 21, 2022. APPLICANT submitted an Application on April 19, 2023, which was not within 60 days of the completion of the work of the HEQC and the issuance of APL 22-028. However, the Department found that it was in the public interest and not detrimental consumers to waive the time requirements for the Application, as was done with the Petition.⁴ APPLICANT requested

² See Cal. Code Regs., tit. 28 § 1010; see also Health and Safety Code § 1343(b).

³ See Cal. Code Regs., tit. 28, § 1010, subd. (c)(1).

⁴ See Health and Safety Code § 1343(b).

\$41,243.00 for work performed.

IV. SUBSTANTIAL CONTRIBUTION

APPLICANT served in the HEQC, participating in all meetings held by the HEQC, which occurred over the span of eight months. APPLICANT contributed to the HEQC proceeding by presenting on the range and evidence of health disparities experienced by people with disabilities. APPLICANT prepared in advance for each HEQC meeting, and within each meeting asked clarifying questions, raised facts relevant to agenda topics, and ensured that the viewpoints and needs of the disability community were provided to other voting members, presenters, and Department staff. In between meetings, APPLICANT provided the HEQC with documentation of health equity studies and research on how people with a range of disabilities experience multiple barriers to receiving effective, accessible, and affordable health care. Throughout the HEQC process, APPLICANT advocated for the full inclusion of people with disabilities, including those who hold intersecting characteristics such as race, ethnicity, older or younger age, limited English proficiency, or LGBTQ+ status.

The Hearing Officer finds APPLICANT's participation: (1) significantly assisted the Department in its deliberations by presenting relevant issues, evidence, and arguments the Department investigated and seriously considered; and (2) resulted in more relevant, credible, and non-frivolous information being available to the Department, which helped inform the Department in formulating HEQMs. The Hearing Officer finds APPLICANT made a substantial contribution, pursuant to California Code of Regulations, title 28, section 1010, subdivision (b)(14), to the HEQC and to the development of the HEQMs.

V. REASONABLENESS OF HOURS AND COSTS AND MARKET RATE

A. Fees Requested

APPLICANT billed the following times, hourly rates, and fees for its representatives:

SILVIA YEE
SENIOR STAFF ATTORNEY/ANALYST
TIME: 59 Hours
RATE: \$699/hour
TOTAL: \$41,243.00

B. Market Rate

APPLICANT is entitled to compensation for Advocacy and Witness Fees at hourly rates reflecting the market rates for services. The “Market Rate” is “the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas.”⁵

To determine the appropriate Market Rate, the Department relies on the market rates used by the California Public Utilities Commission’s (“PUC”) Intervenor Compensation Program. Reference to the PUC’s rates is appropriate because the Intervenor Compensation Program is similar to the Department’s CPP⁶ and has an extensive history of awarding intervenor compensation and updating hourly rates used in computing awards of compensation to intervenors. Therefore, the many PUC written decisions granting intervenor compensation provide valuable guidelines for determining reasonableness and market value.

⁵ Cal. Code Regs., tit. 28, § 1010, subd. (b)(8).

⁶ The Legislative history behind the Department’s CPP specifically referred to the PUC’s program. See Stats 2002 C. 792 §1 (SB 1092).

C. Hourly Rates that Reflect the “Market Rate”

The Hearing Officer finds that hourly rates for services provided in a statewide proceeding (such as PUC proceedings) are essentially equivalent to hourly rates for “comparable services in the private sector in the Los Angeles and San Francisco Bay Areas.” Therefore, in determining whether Advocacy and Witness fees are consistent with the Market Rate, the Hearing Officer relies on the PUC’s adopted ranges for work intervenor representatives performed in 2021.⁷

D. Determination of the Hourly Market Rate for APPLICANT

The Hearing Officer finds that the hourly rates APPLICANT claimed are consistent with the applicable Market Rate. For the work Silvia Yee performed, APPLICANT claims advocacy and witness fees at the hourly rate of \$699.00. APPLICANT justified this rate by reference to Ms. Yee’s background and experience, as detailed in the resume provided with the Application. Ms. Yee earned a Bachelor of Laws degree from the University of Alberta in Canada in 1989 and was admitted to the State Bar of California in 2002. Ms. Yee has over twenty years of experience relating to health care policy and has published extensively on health care issues, including disabilities and health care inequities. The PUC’s adopted hourly rate range for attorneys with 15 or more years of experience is \$486 to \$699 per hour. The Hearing Officer finds that the hourly rate of \$699.00 is consistent with the Market Rate.

VI. AWARD

APPLICANT is awarded Advocacy and Witness Fees for work related to the HEQC and preparation of the HEQMs.

⁷ See [Intervenor Hourly Rate Information](#)

SENIOR STAFF ATTORNEY/ANALYST

Hours: 59

Rate: \$699/hour

Fee: \$41,243.00

Total Fees: \$41.243.00

FINDINGS OF FACT

1. APPLICANT partially satisfied the procedural requirements necessary to claim compensation in this Proceeding and the Department waived the time requirements with respect to submission of the Petition and the Application.

2. APPLICANT made a substantial contribution to the Department's HEQC, which resulted in the development of HEQMs.

3. APPLICANT requested an hourly rate that is reasonable when compared to market rates for persons with similar training and experience for Ms. Yee.

4. The total reasonable compensation for APPLICANT is \$41,243.00.

CONCLUSIONS OF LAW

1. APPLICANT fulfilled the requirements of California Code of Regulations, title 28, section 1010 in part and the Department issued a waiver for the time requirements pursuant to Health and Safety Code section 1343, thus APPLICANT is entitled to compensation regarding participation in HEQC.

2. APPLICANT should be awarded \$41,243.00.

AWARD ORDER

1. APPLICANT is hereby awarded \$41,243.00 as compensation for its Substantial Contribution to the HEQC.

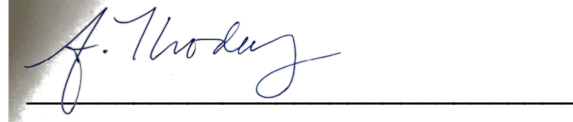
2. Payment shall be made within thirty (30) days of the effective date of this

decision.

3. This decision is effective thirty (30) days after posting this decision on the Department's website.⁸

Dated: June 21, 2023

Original Signed By:

A handwritten signature in blue ink, appearing to read "A. Thodas", is written over a horizontal line. The signature is cursive and somewhat stylized.

ALI THODAS
Hearing Officer
Department of Managed Health Care

⁸ Cal. Code Regs., tit. 28, § 1010 subd. (e)(5), (6).