

BEFORE THE
DEPARTMENT OF MANAGED HEALTH CARE
STATE OF CALIFORNIA

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

Health Access of California,
Applicant.

**DECISION GRANTING AWARD OF
ADVOCACY FEES TO HEALTH
ACCESS OF CALIFORNIA, FOR
SUBSTANTIAL CONTRIBUTION TO
HEALTH EQUITY AND QUALITY
COMMITTEE.**

I. SUMMARY

Health Access of California (APPLICANT) submitted an Application for an Advocacy Award 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 \$66,838.00.

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

A. Petition to Participate

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

On March 7, 2016, APPLICANT submitted to the Department its Petition to Participate (Petition). On March 22, 2016, 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.²

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 its Application for an Award of Advocacy Fees on February 17, 2023, which was within 60 days of the completion of the work of the HEQC and the issuance of APL 22-028, which outlines the HEQMs. APPLICANT requested \$61,990.00 for work performed. The Department adjusted the total amount of the Award, as explained further below.

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 provided significant comments during HEQC meetings and voted on critical action items such as measurements and benchmarking. Further, APPLICANT spent considerable time reviewing background materials to provide consumer-oriented perspectives with the

² See Cal. Code Regs., tit. 28, § 1010, subd. (c)(1).

goals of selecting measurements best able to capture disparities in health equity and quality, to increase health plan accountability in achieving benchmarks, and to consider consumer equity and quality impacts specific to LGBTQ Californians.

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:

DIANA DOUGLAS
POLICY AND LEGISLATIVE ADVOCACY MANAGER
TIME: 54.5 Hours
RATE: \$350/hour
TOTAL: \$19,075.00

ANTHONY WRIGHT
EXECUTIVE DIRECTOR
TIME: 14 Hours
RATE: \$385/hour
TOTAL: \$5,390.00

BETH CAPELL
POLICY ADVOCATE

TIME: 50 Hours
RATE: \$425/hour
TOTAL: \$21,250.00

DANNIE CESENA
DIRECTOR, CA LGBTQ Health and Human Services Network
TIME: 46.5 Hours
RATE: \$350/hour
TOTAL: \$16,275.00

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.”³

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 CPP⁴ 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.

C. Hourly Rates that Reflect the “Market Rate”

The Hearing Officer finds that hourly rates for services provided in a statewide

³ Cal. Code Regs., tit. 28, § 1010, subd. (b)(8).

⁴ The Legislative history behind the Department’s CPP specifically referred to the PUC’s program. See Stats 2002 C. 792 §1 (SB 1092).

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 2021.⁵

D. Determination of the Hourly Market Rate for APPLICANT

The Hearing Officer finds that the hourly rates APPLICANT claimed are partly consistent with the applicable Market Rate. For the work Diana Douglas performed, APPLICANT claims advocacy and witness fees at the hourly rate of \$350.00. APPLICANT justified this rate by reference to Ms. Douglas’s background and experience. Ms. Douglas earned a master’s degree in Sociology, with a concentration in medial sociology and inequality and has 5 or more years of experience relating to health care policy. The PUC’s adopted hourly rate range for experts with 5-10 years of experience is \$232 to \$437 per hour. The Hearing Officer finds that the hourly rate of \$350.00 is consistent with the Market Rate.

For the work Anthony Wright performed, APPLICANT claims advocacy and witness fees at the hourly rate of \$385.00. Mr. Wright earned bachelor’s degrees from Amherst College and has served as the Executive Director for Health Access for 20 years. The PUC’s adopted hourly rate range for experts with 15 or more years of experience is \$492-\$867 per hour. The Hearing Officer finds that the hourly rate of \$385.00 is below the Market Rate. Therefore, the hourly rate for Mr. Wright shall be adjusted and set at \$492.00 per hour.

⁵ See [Intervenor Hourly Rate Information](#)

For the work Beth Capell performed, APPLICANT claims advocacy and witness fees at the hourly rate of \$425.00. Ms. Capell has a doctoral degree in Political Science from the University of California, Berkeley. She has served as a legislative advocate working on health care issues since 1984 and has represented Health Access since 1996. The PUC's adopted hourly rate range for experts with 15 or more years of experience is \$492-\$867 per hour. The Hearing Officer finds that the hourly rate of \$455.00 is below the Market Rate. Therefore, the hourly rate for Ms. Capell shall be adjusted and set at \$492.00 per hour.

For work Dannie Cesena performed, applicant claims advocacy and witness fees at the hourly rate of \$350.00. He has a master's degree in public health from National University. He has worked in the field of public health for over ten years and has an extensive history as a health care advocate for the LGBTQ community. The PUC's adopted hourly rate range for experts with 5-10 years of experience is \$232 to \$437 per hour. The Hearing Officer finds that the hourly rate of \$350.00 is consistent with the Market Rate.

VI. AWARD

APPLICANT is awarded Advocacy and Witness Fees for work related to preparing written comments that significantly assisted the Department in its deliberations.

POLICY AND LEGISLATIVE ADVOCACY MANAGER

Hours: 54.5

Rate: \$350/hour

Fee: \$19,075.00

EXECUTIVE DIRECTOR

Hours: 14

Rate: \$492/hour
Fee: \$6,888.00

POLICY ADVOCATE

Hours: 50
Rate: \$492/hour
Fee: \$24,600.00

DIRECTOR

Hours: 46.5
Rate: \$350/hour
Fee: \$16,275.00

Total Fees: \$66,838.00

FINDINGS OF FACT

1. APPLICANT satisfied all the procedural requirements necessary to claim compensation in this Proceeding.
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. Douglas; however, the hourly rate for Mr. Wright and Ms. Capell were adjusted to reflect the Market Rate consistent with their educational levels and years of experience.
4. The total reasonable compensation for APPLICANT is \$66,838.00.

CONCLUSIONS OF LAW

1. APPLICANT fulfilled the requirements of California Code of Regulations, title 28, section 1010, and is entitled to compensation regarding participation in HEQC.
2. APPLICANT should be awarded \$66,838.00.

AWARD ORDER

1. APPLICANT is hereby awarded \$66,838.00 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.⁶

Dated: April 18,2023

Original Signed By:

ALI THODAS
Hearing Officer
Department of Managed Health Care

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