

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
THE PROPOSED MERGER OF
CENTENE AND MAGELLAN.**

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) approval of the Proposed Merger of Centene and Magellan. The Department designated Ali Thodas as the Hearing Officer. The Department finds that APPLICANT made a substantial contribution to the approval of the merger and awards APPLICANT \$12,186.00.

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

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

III. REQUIREMENTS FOR AWARDS OF ADVOCACY AND WITNESS FEES

A. Petition to Participate

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 23, 2021, the Department approved the proposed merger and issued Undertakings for Centene to demonstrate continued compliance with the Knox Keene Act and the corresponding regulations at Title 28, California Code of Regulations.³ The effective date of the Undertakings is the closing date of the merger. The merger of Centene and Magellan was completed on January 4, 2022.⁴ APPLICANT submitted its Application for an Award of Advocacy Fees on March 3, 2022, which was within 60 days of the completion of the merger and the effective date of the Undertakings issued by the Department. APPLICANT requested \$10,473.00 for work performed.

IV. SUBSTANTIAL CONTRIBUTION

APPLICANT provided both significant written comment, and oral testimony during the public hearings on the proposed merger. APPLICANT reviewed the independent health analysis, provided comments on what additional information was

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

³ See [Centene-Magellan Undertakings](#)

⁴ See [Centene Completes Acquisition of Magellan Health](#)

needed, and made recommendations on potential conditions and undertakings.

APPLICANT's suggestions included the following: limit rate increases in the future to no more than the market average; improve quality as measured by documented outcomes; reduce disparities, especially for behavioral health, specifically with respect to screening and treatment for clinical depression, one of the most common mental conditions that is co-morbid with other major chronic conditions; and require Centene to fund training and education for non-physician mental health professionals. Some of these concepts were integrated into the Undertakings. For example, APPLICANT suggested rate increases should be limited after the merger, which was a central part of the Undertakings agreement.

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 making the Decision. The Hearing Officer finds APPLICANT made a substantial contribution, pursuant to California Code of Regulations, title 28, section 1010, subdivision (b)(14), to the Decision to approve the Centene-Magellan merger.

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: 6 Hours

RATE: \$350/hour

TOTAL: \$2,100

ANTHONY WRIGHT

EXECUTIVE DIRECTOR

TIME: 8.5 Hours

RATE: \$385/hour

TOTAL: \$3,273

BETH CAPELL

POLICY ADVOCATE

TIME: 12

RATE: \$425/HOUR

TOTAL: \$5,100

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

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).

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 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 partly consistent with the applicable Market Rate. For 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 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

⁷ See [Intervenor Hourly Rate Information](#)

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 Market Rate. Therefore, the hourly rate for Mr. Wright shall be adjusted and set at \$492.00 per hour.

For work Beth Capell performed, APPLICANT claims advocacy and witness fees at the hourly rate of \$455.00. 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. 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.

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: 6
Rate: \$350.00
Fee: \$2,100.00

EXECUTIVE DIRECTOR

Hours: 8.5
Rate: \$492.00
Fee: \$4,182.00

POLICY ADVOCATE

Hours: 12
Rate: \$492.00

Fee: \$5,904.00

Total Fees: \$12,186.00

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 approval of the Proposed Merger of Centene and Magellan.
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 \$12,186.00.

CONCLUSIONS OF LAW

1. APPLICANT fulfilled the requirements of California Code of Regulations, title 28, section 1010, and is entitled to compensation regarding the Proposed Merger of Centene and Magellan.
2. APPLICANT should be awarded \$12,186.00.

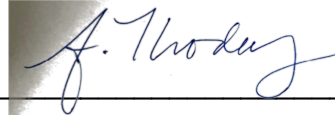
AWARD ORDER

1. APPLICANT is hereby awarded \$12,186.00 as compensation for its Substantial Contribution to the Proposed Merger of Centene and Magellan.
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: April 29, 2022

Original Signed By:

A handwritten signature in cursive script, appearing to read "A. Thodas", is written over a horizontal line. The signature is in black ink on a white background.

ALI THODAS
Designated Hearing Officer
Department of Managed Health Care

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