

The Consumer Participation Program (CPP) allows the Department to award reasonable advocacy and witness fees to any person or organization that Represents the Interests of Consumers in a Proceeding and makes a Substantial Contribution to the Department in its deliberations regarding that Proceeding.

### **Important Definitions**

- **“Advocacy and Witness Fees”** means the amount of compensation a Participant requests for expenses incurred through representing the interests of consumers in any proceeding relating to legislatively authorized guidance, the adoption of any regulation, or the issuance of an order or decision by the Director, including a decision not to adopt a regulation or take an action. The rate used to determine Advocacy and Witness Fees shall not exceed the Market Rate as defined in this section.
- **“Legislatively Authorized Guidance”** means guidance issued by the Department that has been exempted from the processes mandated by the Administrative Procedures Act.
- **“Market Rate”** is the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas. The rate a Participant uses to determine the Advocacy and Witness Fees shall not exceed the Market Rate.
- **“Proceeding”** mean an administrative decision-making process relating to legislatively authorized guidance, the adoption of any regulation, or the issuance of an order or decision by the Director, including a decision not to adopt a regulation or take an action. This shall not include the resolution of individual grievances, complaints, or cases.
- **“Represents the Interests of Consumers”** means the Participant has a record of advocacy on behalf of health care consumers in administrative or legislative proceedings. A Participant that represents, in whole or in part, any entity regulated by the Department shall not be eligible for compensation.
- **“Substantial Contribution”** means the Participant significantly assisted the Department during a Proceeding by presenting relevant issues, evidence, or

arguments which were helpful and seriously considered, and the Participant's involvement resulted in more relevant, credible, and non-frivolous information being available to the Director.

### **How to Participate:**

#### ➤ **STEP ONE: PETITION TO PARTICIPATE**

- **Requirements:** A person who wishes to apply for an award under the CPP (Participant) must first submit a Petition to Participate (Petition) **no later than the end of the final public comment period of the rulemaking proceeding** in which the person or organization seeks to become involved. For legislatively authorized guidance, orders, or decisions, the Petition to Participate **shall be submitted within ten (10) working days** after the legislatively authorized guidance, order, or decision, or decision not to issue an order or decision, becomes final.
- **The Petition must include the following information:**
  - The name of the person or representative, organization name, mailing address, telephone number, and e-mail address.
  - A showing that the person or organization Represents the Interests of Consumers, including a description of the person or organization's experience advocating on behalf of consumers in administrative or legislative proceedings.
  - Names and titles of the members of the organization's governing body.
  - A description of the organization's general purpose, size, and structure.
  - Under what statute the organization is formed or incorporated, including whether it is a non-profit corporation.
  - An identification of the Proceeding in which the person or organization seeks to participate.

- A clear and concise statement of the person or organization's interest in the Proceeding, which explains why participation is needed to represent the interest of consumers.
  - An estimate of the Advocacy and Witness Fees that may be sought.
  - The Petition to Participate shall include a statement that the facts contained therein are true and correct to the best of the knowledge of the person verifying the information.
- **Note:** this information is submitted through a form located in the CPP portal on the DMHC's website at <https://www.dmhca.ca.gov/>, under "About the DMHC", located in "Opportunities to Participate".
  
  - **Example:** Annie participates in a work group convened by the DMHC to evaluate disparities in social determinants of health (SDOH) between persons with developmental/intellectual disabilities and persons without these disabilities, with the goal of creating recommendations to the Legislature regarding how best to screen for and address these disparities. The committee has its final meeting on May 5, 2023. The work group's recommendations are made final the same day. Thus, Annie's Petition to Participate must be submitted within ten (10) days of May 5, 2023, or by no later than Monday May 15, 2023.
  
  - **DMHC action:** the Hearing Officer must rule on the Petition within thirty (30) days of receipt.
  
  - **Example:** The Hearing Officer receives Annie's Petition on May 5, 2023. Thus, the Hearing Officer must rule on her Petition by no later than Sunday June 4, 2023. Since that is a Sunday, the Hearing Officer must issue a decision no later than Monday June 5, 2023. On Monday June 5, 2023, the Hearing Officer grants Annie's Petition. Annie is now eligible to submit an Application for an Award.

➤ **STEP TWO: SUBMITTING AN APPLICATION FOR AWARD**

- **Rule:** A Participant must submit an Application for Award (Application) **no later than sixty (60) days following the effective date of a regulation; the effective date of an order or decision by the Director, or the decision not to issue an order or decision; or the date of issuance of legislatively authorized guidance.**
- The application is also submitted online through the CPP portal of the DMHC website at <https://www.dmhc.ca.gov/>, under “About the DMHC”, located in “Opportunities to Participate”.
  - **All Applications must include the following:**
    - A detailed and itemized description of the Advocacy and Witness Fees for which the Participant seeks compensation.
    - Legible time and/or billing records, created at the same time as when the work was performed, which show the date and the exact amount of time spent on each specific task in thirty (30) minute increments (*e.g., 1.5 hours, Teams meeting on health disparities in between Asian and Latino communities*).
    - The hourly rate of compensation for each witness or advocate acting on behalf of the Participant; a short justification for each hourly rate, which may include copies of or citations to previously approved hourly rates; each witness or advocate's resume or curriculum vitae.
    - A description of the ways in which the Participant has made a Substantial Contribution to the Proceeding, supported by specific citations to each specific task as necessary.
    - A clear and concise statement of the Participant's interest in the Proceeding, which explains why participation is needed to represent the interest of consumers; and
    - A copy of the Participant's Petition to Participate and a statement that the facts contained therein remain true and

correct to the best of the knowledge of the person verifying the information.

- The phrase “each specific task” refers to activities including, but not limited to:
  - Telephone calls or meetings/conferences, identifying the parties participating in the telephone call, meeting/conference and the subject matter(s) discussed.
  - Legal pleadings or research, identifying the pleading or research and the subject matter(s).
  - Letters, correspondence, emails, or memoranda, identifying the parties and the subject matter(s).
  - Attendance at hearings, specifying when the hearing occurred, subject matter of the hearing, and the names of the Participant's witnesses or advocates who appeared and provided testimony at the hearing, if any; and
  - Written comments submitted during a defined comment period.
- **Example:** From the example above, Annie wants to submit an Application now that her Petition has been granted. Since the committee’s recommendations were made final on May 5, 2023, Annie must submit her Application within sixty (60) days of that date or no later than Tuesday July 4, 2023. Since July 4<sup>th</sup> is a federal holiday, Annie must submit her Application by no later than Wednesday July 5, 2023.
- **DMHC action:** Upon receipt of an Application, the DMHC must post the Application (including time and billing records and relevant resumes) to the public website. The hearing Officer must issue a written decision on the Application within sixty (60) days of the Application being posted to the website.

- A Participant who is dissatisfied with the Hearing Officer’s decision on an Application has thirty (30) days from the date the Award is posted to appeal.
  - A decision is effective thirty (30) days after the decision is posted on the DMHC website.
  - Payment pursuant to an award is made within thirty (30) days of the decision’s effective date.
- **Example:** The Hearing Officer approves Annie’s Application on July 5, 2023. The decision is posted to the website and emailed to Annie. The decision’s effective date is Friday August 4, 2023. Payment on the Award must be made within thirty (30) days of that date or by no later than Monday September 3, 2023 (because the 30th day falls on a Sunday, the date is extended to the next working day).

➤ **Interim Compensation**

- The purpose of Interim Compensation is to allow a Participant to request compensation although a Proceeding is ongoing, and the Participant may incur future costs. The Participant requesting Interim Compensation must still file a Petition and an Application for an Advocacy Award. A request for Interim Compensation does not require or preclude a Participant from requesting an additional Award at a later stage in the future.
- The process is the same as outlined above. A Participant must first submit a Petition to Participate and once approved, submit an Application for Award. The same timelines for approval and payment outlined above are applicable here. However, please note the following:
  - The Application shall include the specific time period for which the Interim Compensation is sought (e.g. for work performed between April 1, 2023, and October 31, 2023).
- **Example:** From the example above, Annie has already worked over 60 hours on the DMHC’s SDOH committee. Although there is still more work to be done, Annie decides to submit an Application for Interim

Compensation. She has already submitted a Petition; thus it is not necessary for her to submit another one. She may proceed with submitting her Application. On her Application, Annie indicates that the time period for which she is submitting an Application is from September 1, 2022, through November 30, 2022.

- **DMHC Action:** The timelines for processing an Application for Interim Award are the same. Upon receipt, the DMHC will post the Application on the website and within sixty (60), the Hearing Officer will issue a Decision on the Award. The Decision is posted on the website and thirty (30) days after that, the Decision is effective. This gives the Applicant time to appeal the Decision if they disagree with it. The DMHC will make payment within thirty (30) days after the effective date of the Decision.

➤ **FAQs**

- **What will the DMHC reimburse for under the CPP?**
  - Reimbursable items are related to the specific tasks, as outlined above.
    - **Reimbursable:** Annie attends a 2-hour Teams meeting for the committee where they discussed community-based resources as mechanism of addressing health disparities. Annie presents evidence at the meeting regarding community health workers and the positive impact they can have on SDOH and long-term health outcomes. Other committee members were also in the meeting, as were various offices within the DMHC. Annie includes this meeting on her time entry to be included with her Application.
    - **Not Reimbursable:** Annie includes a request for reimbursement for childcare costs she incurred while attending the Teams meeting described above. This is not a reimbursable cost. Awards are given for **Substantial Contributions** to the Department, which means that a

Participant significantly assisted the DMHC during a Proceeding by **presenting relevant issues, evidence, or arguments which were helpful and seriously considered, and the Participant's involvement resulted in more relevant, credible, and non-frivolous information being available** to the Director. (Emphasis added.) So, while childcare was necessary for Annie's attendance at the meeting, it does not fit into the definition of Substantial Contribution to the DMHC.

- **Do I have to submit a Petition every time I want to apply for an Award under the CPP?**
  - No. If the information on an existing Petition is still true and correct, you do not need to submit a Petition with every Application.
- **How do you calculate the Market Rate when considering an Application?**
  - As explained above, the Market Rate is the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas. The Hearing Officer uses the rates listed on the Public Utilities Commission (PUC) Intervenor Compensation Program, which is akin to the CPP. These rates can be found online [here](#).
- **How long does the entire process take (Petition to payment of Award)?**
  - When submitting a new Petition: approximately 150 days.
  - When a Petition is already on file with the CPP: approximately 120 days.