



Application for an Award of Advocacy and Witness Fees

Entity Name: Consumer Reports
Date Submitted: 1/4/2019 11:42:54 AM
Submitted By: Dena Mendelsohn
Application version: Original App

1. For which proceeding are you seeking compensation?

Proposed merger of Cigna and Express Scripts

2. What is the amount requested?

\$5,250.00

3. Proceeding Contribution:

Provide a description of the ways in which your involvement made a substantial contribution to the proceeding as defined in California Code of Regulations, Title 28, Section 1010(b)(14), supported by specific citations to the record, your testimony, cross-examination, arguments, briefs, letters, motions, discovery, or any other appropriate evidence.

Consumer Reports submits this request for reasonable advocacy fees for our substantial contribution to the decision of the Department of Managed Health Care (DMHC) regarding Cigna's acquisition of Express-Scripts. Consumer Reports substantially contributed to DMHC's review of the proposed merger in a variety of ways. On September 26, 2018, Dena Mendelsohn, Senior Policy Counsel at Consumer Reports, provided an oral statement to the Department during which she voiced major concerns held by Consumer Reports regarding the proposed merger of this merger and pharmacy benefit manager. For example: - Our skepticism that a merger of Cigna-Express Scripts will lead to measurable efficiencies, which benefit consumers, and cannot be attained without merging. - Questions about the extent to which this merger would benefit consumers given the lack of transparency and the concentrated nature of the healthcare marketplace. - The potential for reduced competition and changes to services offered by the companies following a merger. - The recent uptick in enforcement actions and the risk that the quality of Cigna's products could further erode if the company is able to operate from a position of increased market strength. In addition to articulating the concerns of Consumer Reports in person, Ms. Mendelsohn provided the Department with a detailed written testimony dated October 9, 2018. This statement included a substantial collection of background information, derived from a literature review and extensive review and analysis of public records and reports, highlighting that: most consumers affected by this merger have limited choice or "power of the purse"; the market needs more PBMs, not fewer - this vertical merger does not help address any competition concerns; this merger may benefit the merging parties, but the value for consumers is far from clear. Additionally, in our written testimony, Consumer Reports detailed for the Department seven recommended Undertakings, designed to protect consumer interests in the event that the Department approved the merger. They centered around: 1. Ensuring fairness in the marketplace, such as in premium rate setting. 2. Improving the quality and scope of coverage, from network adequacy to improved quality scores. 3. Protecting consumer privacy. 4. Proper staffing for a smooth transition. Although Consumer Reports is not privy to the closed negotiations between DMHC and the merging corporations, we believe Consumers Reports played an important role in the conversation and that our input is reflected. For example, the following agreements to: - Keep premium rate increases to a minimum and not to increase premiums because of the acquisition. - Correct deficiencies in Cigna's products, such as by complying with timely access standards; improving geographic access to primary care physicians, hospitals, and

specialists; improving its grievance and appeals systems; improving quality of care scores; - Maintain a firewall between the merging companies in order to protect competition in the marketplace. We believe this could also enhance privacy protections. - Keep key functions and management based in California for a period of five years, to smooth the transition into an integrated organization.

4. Please attach your time and billing record in the "Add Attachment" box below. In the time and billing record, include the hourly rate of compensation for each witness or advocate and a justification for each hourly rate, which may include copies of or citations to previously approved hourly rate; and each witness or advocate's resume or curriculum vitae. The time and billing record should show the date and exact amount of time spent on each specific task in thirty (30) minute increments, as defined in California Code of Regulations, Title 22, Section 1010(d)(3).

Document Name	Date Uploaded	Uploaded By	
Dena Mendelsohn resume	1/4/2019 11:37:21 AM	Dena Mendelsohn	View
Cigna Express Scripts time and billing	1/4/2019 11:42:11 AM	Dena Mendelsohn	View

5. Clear and concise statement of participants interest in the proceeding which explains why participation is needed to represent the interests of consumers

Mergers in the healthcare sector – especially those that create large corporations that straddle especially wide swaths of how healthcare is accessed, such as with Cigna and Express Scripts – pose a threat of increased premiums and diminished choice. They also threaten to reduce the incentive to improve quality and innovation. Because this is a complicated and nuanced issue on which Consumer Reports has expertise, both nationally and in California, our mission dictates that we advocate for consumers in order to balance out the robust panel of attorneys representing the plans.

6. The information contained in the Petition to Participate remains true and correct to the best of the knowledge of the person verifying the information.

Yes

I am authorized to certify this document on behalf of the applicant. By entering my name below, I certify under penalty of perjury under the laws of the State of California that the foregoing statements within all documents filed electronically are true and correct and that this declaration was executed at SAN FRANCISCO (City), CA (State), on January 04, 2019.

Enter Name: Dena Mendelsohn

Dena B. Mendelsohn

1535 Mission Street, San Francisco, CA 94103

Dena.Mendelsohn@consumer.org ♦ 415.431.6747 (office)

EXPERIENCE

2014-present

Senior Policy Counsel, Consumer Reports (f.k.a. Consumers Union)

Staff Attorney (2015-2017); Policy Analyst (2014-2015)

Full-scope policy analyst portfolio covering federal and state health policy related to health insurance coverage and Medicaid policy, such as Affordable Care Act (ACA) implementation and repeal/replace efforts, health insurance rate review, medical loss ratio, inaccurate provider directories, health information technology, health privacy, and health sector mergers. Formulation of policy positions, providing analysis, recommendations, and strategic thinking for senior leadership. Lead policy response to rapidly evolving landscape of federal health care reform, review of proposed legislation, drafting of explanatory materials for internal and external use. Represent the organization at stakeholder and public meetings, regulatory hearings, conferences, panel discussions, and in the media. Cultivate a national consortium of experts and advocates on the topic of health insurance rate review. Work cross-functionally with teams in remote offices as well as across silos to leverage resources within the organization and to amplify position. (Registered lobbyist in California.)

2011-2013

Policy Analyst, Pacific Business Group on Health

Worked with stakeholders and experts nationwide to improve the quality, safety, efficiency, and patient-reported outcomes of health care. Ad hoc assignments related to employer wellness programs, membership and press communications, and creation of policy presentations for leadership. Review of draft regulations on the topic of digital health/health IT regulations, and other federal rulemaking, and drafting of comment letters in collaboration with colleagues. Support representatives on four NQF committees. Grant-related project management.

2008-2010

Budget and Planning Analyst II, State of Missouri

Office of Administration, Division of Budget and Planning

Tasked with educating the Governor's Office on all pending legislation related to three major statewide departments as well as singularly managing budgets totaling approximately \$800 million. Represented the Governor's budgeting office in diverse settings with various stakeholders. Developed budget recommendations including drug court funding, responses to an influx in the prison population, and budget shortfalls for public attorneys. Engaged in the challenging work of budget cuts during a national economic crisis.

2005-2006

Private Practicing Attorney, O'Gorman & Sandroni, P.C.

Practice primarily estate law and general litigation. Conceptualized and developed firm website, marketing materials.

Dena B. Mendelsohn

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Dena.Mendelsohn@consumer.org ♦ 415.431.6747 (office)

EDUCATION

- May 2008 **Saint Louis University**, St. Louis, Missouri
Master of Public Health (focus: health policy)
Honors and Activities
Passed comprehensive exams with great distinction (sole recipient)
Alpha Delta Chapter of Delta Omega – The Honorary Public Health Society
The Health Policy Outstanding Student Award recipient
Vice President, Graduate Students in Health Policy and Advocacy
Alpha Epsilon Lambda (AEL) Honor Society, based on academics (gpa 3.97),
leadership, recommendations
- May 2005 **Washington University**, St. Louis, Missouri
Juris Doctorate
Clinical Experience: Environmental Law Clinic (2004)
Honors and Activities:
Merit tuition scholarship award
Dean's List
CALI Award for highest grade in Biomedical Ethics writing seminar course
Excellence Award in Oral Advocacy
Credited for contribution in two legal treatises
- May 2002 **Emory University**, Atlanta, GA
Bachelor of Arts, English and Creative Writing
Honors and Activities:
Magna Cum Laude
Dean's list
Leader of the Year award

BAR MEMBERSHIPS

- Missouri (2005, currently inactive status)

PROFESSIONAL AWARDS, HONORS, MEMBERSHIPS

- National Quality Forum (NQF) Health IT Safety Committee (2015-2016)
- Project Advisory Committee, Health Insurance Rate Watch, A Project of OSPIRG Foundation (2016-present)

**Consumer Reports Time and Billing Record for Award of Advocacy and Witness Fees
Acquisition of Express Scripts by Cigna**

Hourly rates are based on the Intervenor Compensation Rates set by the Public Utilities

DENA MENDELSON, SENIOR POLICY COUNSEL ATTORNEY -- RATE \$350/hour			
Name	Date	Time spent (to half hour)	Description
Dena Mendelsohn	9/17/18	3.5	Background research and draft testimony for DMHC hearing .
Dena Mendelsohn	9/21/18	0.5	Prep meeting with Health Access
Dena Mendelsohn	9/26/18	4	Travel to Sacramento for public meeting
Dena Mendelsohn	9/26/18	1.5	Attended DMHC hearing re proposed merger of Anthem and Cigna, presented oral testimony on the impact to consumers.
Dena Mendelsohn	10/3/18	3.5	Draft written testimony
Dena Mendelsohn	10/4/18	1	Draft written testimony
Dena Mendelsohn	10/9/18	1	Final revisions to testimony

TOTAL \$5,250.00

TOTAL AWARD REQUESTED	\$5,250.00
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