

Application for an Award of Advocacy and Witness Fees

Entity Name: Health Access of California
Proceeding: Director's Letter 4-K "Implementation of AB 2244"
Date Submitted: 6/30/2011 12:49:37 PM
Submitted By: Rick Pavich
Application version: Original App

1. For which proceeding are you seeking compensation?

Director's Letter 4-K "Implementation of AB 2244"

2. What is the amount requested?

\$2,100.00

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 22, Section 1010(b)(8), supported by specific citations to the record, your testimony, cross-examination, arguments, briefs, letters, motions, discovery, or any other appropriate evidence.

Supplied written comments on Draft Guidance Letter 4-K on AB 2244. See attached documentation.

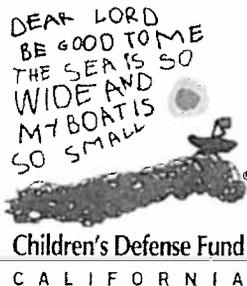
Document Name	Date Uploaded	Uploaded By	
HAC Docs Guidance 4-K AB 2244	6/30/2011 12:43:24 PM	Rick Pavich	View
HAC Staff Bios	6/30/2011 12:48:44 PM	Rick Pavich	View

4. Please attach your Time and Billing Record in the "Add Attachment" box below. If you do not have your own Time and Billing Record, please use the [DMHC template](#).

Document Name	Date Uploaded	Uploaded By	
HAC Fees Guidance 4-K AB 2244	6/30/2011 12:44:22 PM	Rick Pavich	View

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 Sacramento (City), CA (State), on June 30, 2011.

Enter Name: Rick Pavich



January 13, 2011

To: Sherrie Lowenstein, California Department of Managed Health Care

From: Beth Capell, on behalf of Health Access California
Kelly Hardy, Children Now, 100% Campaign
Julie Silas, Children's Defense Fund California, 100% Campaign
Kathleen Hamilton, Children's Partnership, 100% Campaign

CC: Leslie Tick, California Department of Insurance
Janice Rocco, California Department of Insurance
David Stammerjohan, Office of Assemblymember Mike Feuer

Re: Draft Guidance on AB2244: Letter #4-K-1

We appreciate the opportunity to review the draft guidance in advance of its release and to share our thoughts with DMHC staff. We have shared our thoughts on the draft guidance issued by CDI, as well.

Comments on Draft Guidance:

We offer these specific comments in writing on this draft guidance.

1. The draft guidance does not mention the open enrollment periods.

We think it is important to spell out the requirements for open enrollment in the guidance, to include not only the current sixty day period, but the child's birth month as well as those changes in circumstances that would trigger an open enrollment period (e.g. divorce).

As DMHC reviews materials prepared by plans to assure that plans are fairly and affirmatively marketing these products, we ask DMHC to include as part of the guidance a requirement that all marketing by the health plans include posting on their websites and other marketing materials when the open enrollment periods are, so that families have the greatest clarity about when to apply for coverage.

2. Rating Outside of Open Enrollment Periods.

We suggest that notice of the higher risk rate, and the opportunity to apply to reduce it, should be given sixty days prior to renewal: this is consistent with the changes in SB1163 which also takes effect on January 1, 2011 and which requires 60 days notice of changes in rates in the individual market. We also suggest that the notice include a statement that lower rates are available during the open enrollment period that occurs in the month of the child's birthday, as well as referring to the changes of circumstances.

3. Surcharge.

We strongly urge DMHC to clarify in the guidance that the 20% surcharge is applied to the rate for a similarly situated child, that is, a child of the same age, geographic region, family composition and benefit plan. These are the characteristics listed in Section 10954 (a) for purposes of establishing a rate. This will provide clarity and is consistent with the statutory authority in Section 10954 when it is read in its entirety.

In addition, can DMHC exempt from the surcharge those children just applying for coverage during this first 60 days of open enrollment? Until January 1, 2011, these children had no option to purchase insurance because of pre-existing condition exclusions. Otherwise, those previously denied coverage will face a surcharge when no options existed prior to January 1st. We would encourage DMHC to make such an exception and be explicit about that in this guidance.

We very much appreciate that the surcharge is discontinued after 12 months with no further action required from the insured and that notice must be provided.

The notice required in section 1389.25(b)(1) is an important consumer protection: it was designed to assure that families and other responsible parties for children are aware that either the surcharge or the higher rating may apply if they fail to maintain coverage or if they attempt to obtain coverage outside an open enrollment period or late enrollment period. We appreciate the inclusion of this notice requirement in the Department's guidance, but would suggest that the Department require the notice be provided in a timely fashion.

4. Notice.

We urge that the Department requires health plans in their marketing to disclose that coverage for children under 19 years in the individual market must be sold regardless of any pre-existing condition the child may have. Our organizations are committed to assuring that every child in California has health coverage. Requiring marketing materials to disclose the factually accurate statement that insurers are prohibited from denying coverage to children under 19 years of age in the individual market is an important means of achieving that objective.

5. Five-Year Bar.

We also suggest that the guidance make explicit that the five-year bar on selling in the individual market for insurers that cease offering either family or child-only coverage applies to every individual policy.

6. Rate Review for Individual Market Under Age 19.

Finally, as we raised in our comments to CDI, we ask that rate review guidance separate out rates for coverage for children under age 19. The changes in children's coverage are very significant: we wish the opportunity to scrutinize both the rates and the justification for those rates to assure that the rates have a sound basis.

Sincerely,

Beth Capell, on behalf of Health Access California
Kelly Hardy, Children Now, 100% Campaign
Julie Silas, Children's Defense Fund California, 100% Campaign
Kathleen Hamilton, Children's Partnership, 100% Campaign

To: Lowenstein, Sherrie
Cc: Ream, Sarah; Phan, Tam; McKennan, Maureen; Krause, Amy
Subject: DMHC AB 2244 Draft Guidance

The Department of Managed Health Care is considering issuing the attached draft guidance document regarding provisions of Assembly Bill 2244. This draft guidance is intended to be consistent with the guidance issued by the California Department of Insurance. If you would like to comment on the attached draft guidance, please email your comments to Sherrie Lowenstein at slowenstein@dmhc.ca.gov no later than January 13, 2011. You may also submit written comments to:

Attn: Sherrie Lowenstein
Office of Legal Services
Department of Managed Health Care
980 9th Street, Suite 500
Sacramento, CA 95814

If you know of anyone who would have an interest in reviewing the attached draft guidance, please feel free to forward to them. If you have any questions, please feel free to contact me at the below listed number.

Sherrie Lowenstein
Assistant Chief Counsel
Office of Legal Services
(916) 322-5874



BETH CAPELL, PH.D., *Capell & Assoc.* has been the principal and owner of Capell & Assoc. since its founding in 1995. She has thirty years of experience in Sacramento, working in the Legislature, various Administrations, and with various interest groups.

She represents Health Access California; Health Access Foundation; the California Physicians Alliance; State Council of Service Employees International Union, AFL-CIO; and other consumer and labor organizations in both legislative activity and regulatory action.

Health Access California sponsored the package of legislation known as the HMO Patient Bill of Rights from 1995 to its enactment in 1999. Health Access Foundation led a collaborative of consumer groups that monitored initial implementation of the more than 20 pieces of legislation enacted between 1995 and 2000 intended to protect consumers from HMOs. Health Access Foundation has continued to work on implementation and ongoing monitoring of the law with respect to consumer protections against HMOs. Beth Capell has been an architect and active advocate throughout this decade of efforts.

Beth Capell has worked on issues including prescription drugs, universal access, hospital overcharging, balance billing by physicians, nursing home regulations, hospital standards, health insurance regulation, and other health care issues.

Prior to establishing Capell & Assoc. Beth Capell represented the California Nurses Association from 1986 to 1995, first as the legislative advocate and later as the Director of Government Relations for the association. From 1983 to 1986, Ms. Capell worked at the California Manufacturers Association, working on job training and human resource issues, including health insurance. From 1977 to 1983, Ms. Capell worked in various positions in the Legislature, the Administration, and other efforts.

Ms. Capell has Ph.D. in political science from the University of California, Berkeley, and continues to publish articles and present papers on political science, specifically interest groups, legislatures, and the impact of legislative term limits.

Billing Rate Classification: Non-Attorney Expert; 13+ years

AB2244
guidance
letter 4-k

Time Recorded for:

Elizabeth Capell,
Health Care Policy Expert

Date	Time	Activity	Time Elapsed Number of Hours	Hourly Rate	Billed Amount
1/6/2011- 1/13/2011	8:00 a.m.-10:00 a.m., 12:00p.m.- 1:30p.m, 10:30a.m.-12:30p.m., 6:00 a.m.-6:30 a.m.	Analysis and commentary regarding AB2244 draft guidance	6	\$350	\$2,100