

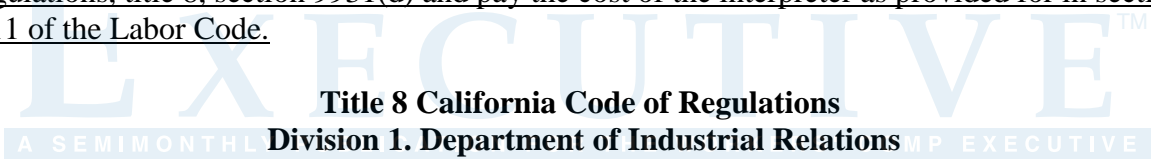
**Title 8 California Code of Regulations
Division 1. Department of Industrial Relations
Chapter 1 Division of Workers' Compensation
Article 3. Qualified Medical Evaluator Regulations**

Assignment of Qualified Medical Evaluators, Evaluation Procedure

§34. Appointment Notification and Cancellation.

~~(e) The QME shall include within the notification whether a Certified Interpreter, as described by Labor Code Section 5811 and subject to the provisions of section 9795.3 of Title 8 of the California Code of Regulations, is required and specify the language. The interpreter shall be arranged by the party who is to pay the cost as provided for in section 5811 of the Labor Code.~~

(c) The QME shall state in the notification whether a Certified Interpreter as described in Labor Code section 5811 and subject to the provisions of California Code of Regulations, title 8, sections 9930(b) and 9934 is required, and, if so, the language to be used. The employer shall select and arrange for the presence of the interpreter as provided in California Code of Regulations, title 8, section 9931(d) and pay the cost of the interpreter as provided for in section 5811 of the Labor Code.



**Title 8 California Code of Regulations
Division 1. Department of Industrial Relations
Chapter 4.5 Division of Workers' Compensation,
Subchapter 1. Administrative Director
Article 3.5 Medical Provider Network**

§9767.3 Requirements for a Medical Provider Network Plan.

(c)(3) If an MPN chooses to provide ancillary services, the ancillary service provider file shall have only the following six columns. The columns shall be in the following order: (1) the name of each ancillary service provider (2) specialty or type of service (3) physical address (4) city (5) zip code of each ancillary service provider. If the ancillary service or ancillary service provider is mobile, list the covered service area within California. By submission of an ancillary provider listing, the applicant is affirming that the providers listed can provide the requested medical services or goods and have a current valid license number or certification to practice, if they are required to have a license or certification by the State of California. If interpreter services are included as an MPN ancillary service, the interpreters listed must be certified as defined in section 9930(b) 9795.1.6(a)(2)(A) and (B).

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4.5. Division of Workers' Compensation
Subchapter 1. Administrative Director--Administrative Rules
Article 5.7 Fees for Interpreter Services

§9795.1. Definitions.

As used in this article:

(a) "~~Claims Administrator~~" means the person or entity responsible for the payment of compensation for any of the following: a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, the director of the Department of Industrial Relations as administrator for the Uninsured Employers Benefits Trust Fund (UEBTF) or for the Subsequent Injuries Benefits Trust Fund (SIBTF), a third party claims administrator for a self-insured employer, insurer, legally uninsured employer, joint powers authority, the Self-Insurers' Security Fund, or the California Insurance Guarantee Association (CIGA).

(b) "~~Full day~~" means services performed which exceed one half day, up to 8 hours.

(c) "~~One half day~~" means:

(1) When appearing at any ~~Workers' Compensation Appeals Board hearing or daytime arbitration~~, all or any part of a morning or afternoon session.

(2) When appearing at a deposition, all or any part of 3.5 hours.

(3) When appearing at an evening arbitration, all or any part of 3 hours.

(d) "~~Travel time~~" means the time an interpreter actually travels to and from the place where service is to be rendered and his or her place of business.

(e) "~~Market rate~~" means that amount an interpreter has actually been paid for recent interpreter services provided in connection with the preparation and resolution of an employee's claim.

Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.30, 11435.35 and 68562, Government Code.

§ 9795.1.5 Interpreters for hearings, depositions or arbitrations

(a) To qualify to be paid for interpreter services at a hearing, deposition or arbitration, the interpreter shall be

~~(1) certified, which means listed on the State Personnel Board webpage at <http://jobs.spb.ca.gov/InterpreterListing/> or the California Courts webpage at <http://courts.ca.gov/programs-interpreters.htm>; or~~

~~(2) provisionally certified, which means deemed qualified to perform interpreter services when a certified interpreter cannot be present, either:~~

~~(A) by agreement of the parties, or~~

~~(B) based on a finding by the workers' compensation administrative law judge conducting a hearing that the interpreter is qualified to interpret at the hearing, or by the arbitrator conducting the arbitration that the interpreter is qualified to interpret at the arbitration. The finding of the judge or arbitrator and the basis for the finding shall be set forth in the record of proceedings.~~

~~Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.30, 11435.35, 11435.55, 11513 and 68562, Government Code.~~

§ 9795.1.6 Interpreters for medical treatment appointments or medical legal exams

~~(a) To qualify to be paid for interpreter services at a medical treatment appointment or medical legal exam, the interpreter shall be certified, certified for medical treatment appointments or medical legal exams, or provisionally certified.~~

~~(1) Certified means listed on the State Personnel Board webpage at <http://jobs.spb.ca.gov/InterpreterListing/> or the California Courts webpage at <http://courts.ca.gov/programs-interpreters.htm>; or~~

~~(2) Certified for medical treatment appointments or medical legal exams, which means either~~

~~(A) passing the Certification Commission for Healthcare Interpreters (CCHI) exam evidenced by a CCHI certification/credential indicating that the interpreter passed the exam and specifying the language, if indicated. The certification procedure is set forth on the CCHI webpage at <http://www.healthcareinterpretercertification.org/>. The CCHI certification/credentials are valid for four years from the date when CCHI granted/issued the credential. Individuals who are granted a CCHI certification or credential must comply with the CCHI requirements to be recertified within this four year period to maintain their certification/credential. Questions about an application may be sent by email to apply@healthcareinterpretercertification.org or to CCHI, 1725 I Street NW, Suite 300, Washington, DC, 20006 (866-969-6656); or~~

~~(B) passing the National Board of Certification for Medical Interpreters (National Board) exams evidenced by a National Board credential indicating that the interpreter passed the exams and specifying the language. The certification procedure is set forth on the National Board webpage at <http://www.certifiedmedicalinterpreters.org/>. The National Board certification is valid for five years from the date when National Board granted/issued the certification. Individuals who are~~

~~granted a National Board certification must comply with the National Board requirements to be recertified within this five year period to maintain their certification. Questions about an application may be sent by email to info@certifiedmedicalinterpreters.org or to National Board, P.O. Box 300, Stow, MA 01775 (1-765-633-2378); or~~

~~(3) Provisionally certified as an interpreter for purposes of medical treatment appointments or medical legal exams (A) if the claims administrator has given prior written consent to the interpreter who provides the services, or (B) the injured worker requires interpreter services in a language other than Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, and Vietnamese, in which case the physician may use a provisionally certified interpreter if that fact is noted in the record of the medical evaluation.~~

~~Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.30, 11435.35, 11435.40, 11435.55, and 11513, Government Code.~~

9795.2 Notice of Right to Interpreter.

~~The notice of hearing, deposition, or other setting shall include a statement explaining the right to have a qualified interpreter present if the injured worker does not proficiently speak or understand the English language. Where a party is designated to serve a notice, it shall be the responsibility of that party to include this statement in the notice.~~

~~Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11513 and 68562, Government Code.~~

§ 9795.3. Fees for Interpreter Services

~~(a) Fees for services performed by a certified or provisionally certified interpreter, upon request of an employee who does not proficiently speak or understand the English language, shall be paid by the claims administrator for any of the following events:~~

~~(1) An examination by a physician to which an injured employee submits at the requests of the claims administrator, the administrative director, or the appeals board;~~

~~(2) A medical treatment appointment;~~

~~(3) A comprehensive medical legal evaluation as defined in subdivision (e) of Section 9793, a follow-up medical legal evaluation as defined in subdivision (f) of Section 9793, or a supplemental medical legal evaluation as defined in subdivision (k) of Section 9793; provided, however, that payment for interpreter's fees by the claims administrator shall not be required under this paragraph unless the medical report to which the services apply is compensable in accordance with Article 5.6. Nothing in this paragraph, however, shall be construed to relieve the party who retains an interpreter from liability to pay the interpreter's fees in the event the claims administrator is not liable.~~

~~(4) A deposition of an injured employee or any person claiming benefits as a dependent of an injured employee, at the request of the claims administrator, including the following related events:~~

~~(i) Preparation of the deponent immediately prior to the deposition,~~

~~(ii) Reading of a deposition to a deponent prior to signing, and,~~

~~(iii) Reading of prior volumes to a deponent in preparation for continuation of a deposition.~~

~~(5) An appeals board hearing, or arbitration.~~

~~(6) A conference held by an information and assistance officer pursuant to Chapter 2.5 (commencing with Section 5450) of Part 4 of Division 4 of the Labor Code to assist in resolving a dispute between an injured employee and a claims administrator.~~

~~(7) Other similar settings determined by the Workers' Compensation Appeals Board to be reasonable and necessary to determine the validity and extent of injury to an employee.~~

~~(b) The following fees for interpreter services provided by a certified or provisionally certified interpreter shall be presumed to be reasonable:~~

~~(1) For an appeals board hearing, arbitration, or deposition: interpreter fees shall be billed and paid at the greater of the following (i) at the rate for one half day or one full day as set forth in the Superior Court fee schedule for interpreters in the county where the service was provided, or (ii) at the market rate. The interpreter shall establish the market rate for the interpreter's services by submitting documentation to the claims administrator, including a list of recent similar services performed and the amounts paid for those services. Services over 8 hours shall be paid at the rate of one eighth the full day rate for each hour of service over 8 hours.~~

~~(2) For all other events listed under subdivision (a), interpreter fees shall be billed and paid at the rate of \$ 11.25 per quarter hour or portion thereof, with a minimum payment of two hours, or the market rate, whichever is greater. The interpreter shall establish the market rate for the interpreter's services by submitting documentation to the claims administrator, including a list of recent similar services performed and the amounts paid for those services.~~

~~(3) The fee in paragraph (1) or (2) shall include, when requested and adequately documented by the interpreter, payment for mileage and travel time where reasonable and necessary to provide the service, and where the distance between the interpreter's place of business and the place where the service was rendered is over 25 miles. Travel time is not deemed reasonable and necessary where a qualified interpreter listed in the master listing for the county where the service is to be provided can be present to provide the service without the necessity of excessive travel.~~

~~(i) Mileage shall be paid at the minimum rate adopted by the Director of the Department of~~

Personnel Administration pursuant to Section 19820 of the Government Code for non-represented (excluded) employees at Title 2, CCR § 599.631(a).

(ii) Travel time shall be paid at the rate of \$ 5.00 per quarter hour or portion thereof.

(c) Unless notified of a cancellation at least 24 hours prior to the time the service is to be provided, the interpreter shall be paid no less than the minimum fee.

(d) Nothing in this section shall preclude payment to an interpreter or agency for interpreting services based on an agreement made in advance of services between the interpreter or agency and the claims administrator, regardless of whether or not such payment is less than, or exceeds, the fees set forth in this section.

(e) The fees set forth in subdivision (b) shall be presumed reasonable for services provided by provisionally certified interpreters only if efforts to obtain a certified interpreter are documented and submitted to the claims administrator with the bill for services. Efforts to obtain a certified interpreter shall also be disclosed in any document based in whole or in part on information obtained through a provisionally certified interpreter.

(f) It is the responsibility of the party producing a witness requiring an interpreter to arrange for the presence of the interpreter.

Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.30, 11435.35 and 68562, Government Code.

A SEMIMONTHLY PUBLICATION FOR THE WORKERS' COMP EXECUTIVE

9795.4. Time for Payment; Effective Date

(a) All expenses for interpreter services shall be paid within 60 days after receipt by the claims administrator of the bill for services unless the claims administrator, within this period, contests its liability for such payment, or the reasonableness or the necessity of incurring such expenses. A claims administrator who contests all or any part of a bill for interpreter services shall pay the uncontested amount and notify the interpreter of the objection within 60 days after receipt of the bill. Any notice of objection shall include all of the following:

(1) An explanation of the basis of the objection.

(2) If additional information is needed as a prerequisite to payment of a contested bill or portions thereof, a clear description of the information required.

(3) The name, address and telephone number of the person or office to contact for additional information concerning the objection.

(4) A statement that the interpreter may adjudicate the issue of the contested charge before the Workers' Compensation Appeals Board.

~~(b) Any bill for interpreter's services which constitutes a medical legal expense as defined in subdivision (g) of Section 9793 and which is neither paid nor contested within the time limits set forth herein shall be subject to the penalties and interest set forth in Section 4622 of the Labor Code.~~

~~(c) This article shall be effective for services provided on and after the effective date of this article which pertain to injuries occurring on or after January 1, 1994. Amendments to this article which became effective in 1996 shall apply to interpreting services provided on or after April 1, 1997.~~

~~Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 68562 and 11513, Government Code.~~

9795.5 Interpreter Directories

~~a. Interpreters certified in accordance with sections 9795.1.5 (a)(1) and 9795.1.6 (a)(1) are listed at the following websites: <http://jobs.spb.ca.gov/InterpreterListing/> and <http://www.courts.ca.gov/programs-interpreters.htm>.~~

~~b. Certified interpreters for the purposes of medical treatment appointments and medical legal exams who meet the qualifications of section 9795.1.6(a)(2) are listed in the registry for Certification Commission for Healthcare Interpreters (CCHI) or National Board of Certification for Medical Interpreters (National Board) at the following websites: <https://echi.learningbuilder.com/Account/Login?ReturnUrl=%2f> or <http://www.certifiedmedicalinterpreters.org/registry>.~~

~~(c) Proof of certification may be requested by the claims administrator and shall be provided by the certified interpreter for the purposes of medical treatment appointments and medical legal exams if the interpreter is not listed in the CCHI or National Board website directory.~~

~~Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.30, 11435.35 and 68562, Government Code.~~

Title 8. Industrial Relations
Division 1. Department of Industrial Relations
Chapter 4.5 Division of Workers' Compensation
Subchapter 1 Administrative Director-Administrative Rules
Article 11 Fees and Requirements for Interpreter Services

§9930. Definitions.

(a) **"Certified interpreter for hearings and depositions"** is an individual listed as a certified interpreter for administrative hearings, medical examinations, or state court proceedings on the State Personnel Board website at <http://jobs.spb.ca.gov/Interpreterlisting> or is listed as a certified interpreter on the California Courts website at <http://courts.ca.gov/programs-interpreters.htm> in one of the following languages: Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, Vietnamese, American Sign Language, Eastern Armenian, Western Armenian, Khmer, Korean, Mandarin, Punjabi, or Russian, or other languages authorized or designated pursuant to Government Code sections 11435.40, 11435.35, and 68562.

(b) **"Certified interpreter for medical treatment appointments and medical-legal evaluation"** is an individual selected to interpret at a medical treatment appointment or a medical-legal evaluation in one of following the languages: Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, Vietnamese, American Sign Language, Eastern Armenian, Western Armenian, Khmer, Korean, Mandarin, Punjabi, or Russian, or other languages authorized or designated pursuant to Government Code sections 11435.40, 11435.35, and 68562; and meets one of the following requirements:

(1) Is a certified interpreter for hearings and depositions under subdivision (a) of this section; or

(2) Is certified as a medical interpreter by the California Department of Human Resources as appears on the State Personnel Board website at <http://jobs.spb.ca.gov/InterpreterListing>; or

(3) Has a valid and current Certification Commission for Healthcare Interpreters (CCHI) certification/credential in Spanish, Mandarin, or Arabic; or

(4) Has a valid and current National Board of Certification for Medical Interpreters (National Board) certification/credential in Spanish, Russian, Mandarin, Cantonese, Korean, or Vietnamese.

(c) **"Claims administrator"** is the person or entity responsible for providing security for the payment of compensation for any of the following: a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, the director of the Department of Industrial Relations as administrator for the Uninsured Employers Benefits Trust Fund (UEBTF) or for the Subsequent Injuries Benefits Trust Fund (SIBTF), or a third-party claims administrator for a self-insured

employer, insurer, legally uninsured employer, joint powers authority, the Self-Insurers' Security Fund, or the California Insurance Guarantee Association (CIGA).

(d) “**Employer**” is the employer, the insurer of an insured employer, a claims administrator, or an entity acting on behalf of any of them.

(e) “**Full day**” means interpreting services performed which exceed one half-day, up to 8 hours.

(f) “**Half-day**” means:

(1) When appearing at any hearing of the appeals board or a daytime arbitration, all or any part of either a morning or afternoon session; or

(2) When appearing at a deposition, all or any part of 3.5 hours; or

(3) When appearing at an evening arbitration, all or any part of 3 hours.

(g) “**Hearing**” includes an appearance or proceeding before the appeals board, an arbitration, settlement conference, Information and Assistance conference, or an appearance or proceeding before an assigned hearing officer, or other similar settings determined by the Administrative Director to be reasonably necessary to determine the validity and extent of injury to an injured worker, or issues related to entitlement to benefits.

(h) “**Hearing officer**” is the individual designated to conduct or preside at a hearing. The hearing officer may be a Workers' Compensation Administrative Law Judge or arbitrator.

(i) “**Medical Treatment Appointment**” means an appointment with a health care provider providing medical treatment pursuant to Labor Code section 4600.

(j) “**Medical-Legal Evaluation**” means an evaluation as defined in sections 9793(c) and (g).

(k) “**Provisionally certified interpreter for hearings and depositions**” means an individual deemed qualified to interpret at hearings and depositions when the requirements in sections 9931(a) and 9933 have been met.

(l) “**Provisionally certified interpreter for medical treatment appointments and medical-legal evaluations**” means an individual deemed qualified to interpret at medical treatment appointments or medical-legal evaluations when the requirements in sections 9931(a) and 9934 have been met.

(m) “**Qualified interpreter**” is a language interpreter providing interpreter services to an injured worker who does not proficiently speak or understand the English language and is one of the following: (i) a certified interpreter for hearings and depositions; or (ii) a provisionally certified interpreter for hearings and depositions when a certified interpreter for hearings and depositions cannot be present; or (iii) a certified interpreter for medical treatment appointments

and medical-legal exams; or (iv) a provisionally certified interpreter for medical treatment appointments and medical-legal evaluations when a certified interpreter for medical treatment appointments and medical-legal evaluations cannot be present.

Authority cited: Sections 133, 4600, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.15, 11435.20, 11435.30, 11435.35, 11435.40, 11435.55 and 68562, Government Code.

§9931 Selection and Arrangement for Presence of Interpreter.

Interpreters shall be selected as set forth in this section.

(a) Certified interpreters in the languages set forth in sections 9930(a) and (b) shall be used, except when a certified interpreter cannot be present, as provided in section 9932, after exhausting the selection procedures of this section.

The requirements of this subdivision shall not apply to a first medical treatment appointment where the delay to obtain a certified interpreter may pose an imminent and serious threat to the injured worker's health.

(b) Hearings. The injured worker shall select and arrange for the presence of an interpreter.

(c) Depositions.

(1) The party noticing the deposition shall select and arrange for the presence of an interpreter.

(2) This subdivision shall include the preparation of the deponent immediately prior to the deposition, the reading of a deposition transcript to the deponent prior to signing, and the reading of prior volumes of deposition transcript in preparation for continuation of a deposition.

(d) Medical-Legal Evaluations. The employer shall select and arrange for the presence of an interpreter.

(e) Medical Treatment Appointments.

For accepted claims and claims under investigation pursuant to Labor Code section 5402, interpreters shall be selected and arranged for as follows:

(1) If the injured worker is not a covered employee, as defined in section 9767.1(a)(2), in a Medical Provider Network (MPN), the injured worker shall select and arrange for the presence of the interpreter.

(2) If the injured worker is a covered employee in an MPN that does not include an ancillary interpreter provider service, the injured worker shall select and arrange for the presence of a

certified interpreter in the required language, who is available at reasonable times and within a reasonable geographic area.

(3) If the injured worker is a covered employee in an MPN that includes an ancillary interpreter provider service that offers certified interpreting services in the language required, and there are certified interpreters in that language available at reasonable times and within a reasonable geographic area, the injured worker must select and utilize an individual interpreter or interpreter service from the ancillary service provider list. If individual interpreters are listed by the interpreter provider service, the injured worker shall choose which certified interpreter to use. All interpreters provided through an MPN ancillary interpreting service provider must be certified as defined in section 9930(b). The employer shall arrange for the presence of the employee-selected interpreter at the medical treatment appointment.

(4) If the injured worker is a covered employee in an MPN that includes an ancillary interpreter provider service that does not have certified interpreters available in the required language, at reasonable times and within a reasonable geographic area, the injured worker shall select and arrange for the presence of a certified interpreter in the required language outside the MPN, who is available at reasonable times and within a reasonable geographic area.

(f) If the injured worker is responsible for selecting the interpreter, the injured worker or his/her agent, if represented, shall promptly select the interpreter and notify the employer within two business days of the selection, so the employer has sufficient time to arrange for the presence of the interpreter. If the event is set to occur within the next two business days, the injured worker or his/her agent, shall notify the employer of the selection of the interpreter, on the same day the arrangement for the event was made.

(g) Employer Obligation to Notify Injured Worker of Interpreter Selection. If the employer is responsible for selecting the interpreter, the employer shall notify the injured worker or his/her agent, if represented, at least two business days prior to the time for the interpretation by telephone (with voice mail message if no answer), e-mail, or text message that a qualified interpreter has been selected and will be present at the event. If the medical treatment appointment scheduled to occur within two business days of the employer becoming aware that an interpreter is needed, the employer shall immediately contact the employee in a manner listed above that a qualified interpreter has been selected and will present at the event.

(h) Alternative Selection of Interpreter.

(1) If the party responsible for selecting the interpreter is unable to arrange for the presence of a qualified interpreter, or if the employer fails to provide the notice required by subdivision (g), the other party may arrange for a qualified interpreter to be present and that interpreter shall be used.

(2) If neither party has arranged for the interpreter, the following procedure shall be followed:

(A) At hearings, the hearing officer shall determine if a qualified interpreter is available on the premises meeting the requirements of this Article, and if so, that interpreter shall be used.

(B) At medical-legal evaluations or medical treatment appointments, if the medical provider has a qualified interpreter on staff at the site available, that interpreter shall be used.

(i) Employer Fee Obligation for Non-Compliance with Notice Requirement. If the employer was responsible for selecting the interpreter and fails to comply with the notice requirement of subdivision (g), and two interpreters are present at the event, one selected by the employer and one selected by the injured worker, hearing officer, or medical provider, as provided in subdivision (h), the interpreter provided by the injured worker, hearing officer or medical provider shall be used and the employer shall be obligated to pay for both interpreters for the full time of the interpretation.

Authority cited: Labor Code sections 133, 4050, 4060, 4600, 4600.3, 4614, 4616, 4621, 5307.3, 5710, 5811. Reference: Sections 3209.3, 3209.5, 3700, 4600, 4616, 4616.3, 4620, 4621, 5401; and Government Code sections 11435.30, 11435.35, and 68562.

Section 9932. Requirements to Establish that a Certified Interpreter Cannot Be Present.

All of the following requirements must be met to establish that a certified interpreter cannot be present:

(a) A party shall contact by telephone, fax, or email at least three interpreter service providers to request that a certified interpreter be available at the event. Each interpreter service provider contacted must be a separate entity. An interpreter provider service is considered a single interpreter provider service for purposes of this section even if it that has access to, contracts with, or employs, more than one interpreter.

(b) The three interpreter service providers contacted must be located within 60 minutes driving time or 30 miles distance from the location where the interpreter services are to be provided, except as provided in subdivision (c).

(c) If a party cannot identify three interpreter service providers that have certified interpreters available in the area set forth in subdivision (b) due to the rural or sparsely populated nature of the area, that party may expand the area for locating and contacting the three interpreter service providers to within 90 minutes driving time or 45 miles distance from the location where the interpreter is required.

(d) A party shall keep a written record of the interpreter service providers personally contacted to obtain a certified interpreter, including the telephone numbers, fax numbers, email addresses, dates and times of each contact, and the names of the individuals who indicated that the interpreter service provider had no certified interpreters available for the event. The written record shall contain, if applicable, a statement that an interpreter service provide did not respond to the inquiry made under subdivision (a) within one business day.

(e) If the party initially responsible for selecting the certified interpreter is unable arrange for a certified interpreter, after exhausting the requirements of this section, the alternative selection

process of section 9931(h) shall apply. If the employer is the party initially responsible and fails to comply with the notice requirements of section 9931(g), the provisions of section 9931(i) also apply.

§9933 Requirements to Perform Interpreter Services at Hearings and Depositions

(a) Certified interpreters in the languages set forth in section 9930 shall be used at hearings and depositions, except when a certified interpreter cannot be present after meeting the requirements in sections 9931 and 9932.

(b) A certified interpreter shall present his/her credential or badge with photo identification to the hearing officer, the parties at hearings, and to the parties at depositions for their review to verify the individual is the interpreter represented on the credential or badge.

(c) A provisionally certified interpreter shall present his/her photo identification to the hearing officer, the parties at hearings, and the parties at depositions for their review to verify the individual is the interpreter represented on the photo identification.

(d) If a provisionally certified interpreter is used at an event in one of the certified languages set forth in section 9930 because a certified interpreter cannot be present, the following additional procedure shall be followed:

(1) The party initially responsible for selecting or arranging for the certified interpreter shall state on the record that a certified interpreter cannot be present and state on the record the contact information required to be recorded by section 9932(d); and

(2) The hearing officer shall state on the record that he/she is satisfied that a certified interpreter cannot be present, after exhausting the selection procedures of section 9931.

(e) As to all interpreters, the hearing officer shall determine on the record whether the prospective interpreter has sufficient skill and is competent to interpret in the required language, whether it is a certified or non-certified language to be deemed a certified or provisionally certified interpreter for hearings and depositions. The hearing officer will base the decision upon the interpreter's experience in interpreting, language training, conflict of interest considerations, education, and interpreter's understanding of non-disclosure and ethical requirements.

(f) All interpreters shall state on the record the following information: the interpreter's full name, whether this is the first or a subsequent interpretation during the same one-half day or full day time period; the number of interpretations the interpreter has already done during the same time period; and the total number of hearings or depositions the interpreter is scheduled to perform during the same time period. In addition, certified interpreters shall state on the record the name of the certifying agency or organization and the interpreter's certification credential or badge number.

(g) The hearing officer or court reporter shall swear in the interpreter with an interpreter oath.

(h) At appearances before hearing officers regarding off the record interpretations, including minute order agreements, stipulations, and compromises and releases, the party providing the interpreter shall represent to the hearing officer that the interpreter whose name appears in the minute order did the interpretation and that their identity and credential has been verified.

Authority cited: Sections 133, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 5710 and 5811, Labor Code; and Sections 11435.20, 11435.15, 11435.30, 11435.35, 11435.40, 11435.55, and 68562, Government Code.

§9934. Requirements to Perform Interpreter Services at Medical Treatment Appointments and Medical-Legal Evaluations.

The following procedures shall be followed when using interpreters at medical treatment appointments and medical-legal evaluations:

(a) Certified interpreters in the languages set forth in section 9930 shall be used at medical treatment appointments and medical-legal evaluations except when a certified interpreter cannot be present, after meeting the requirements of sections 9931 and 9932.

(b) Provisionally certified interpreters shall not be used for interpretation in the certified languages set forth in section 9930(b), unless the employer has given prior consent to use the interpreter in addition to the requirements of subdivision (a).

(c) The medical provider shall determine if a proposed provisionally certified interpreter has sufficient skill to be provisionally certified to interpret in the required language.

(d) All interpreters shall provide proof of identity, and if certified, proof of certification. A certified interpreter shall present to the medical provider his/her credential with photo identification. A provisionally certified interpreter shall present to the medical provider his/her photo identification. The medical provider shall review the credential and/or photo identification to verify the individual is the interpreter represented on the credential or photo identification, and attach a copy of the credential and/or photo identification to the medical-legal exam report or medical treatment appointment file.

(e) Interpreters shall inform the medical provider whether this is the first or subsequent interpretation during the same one-hour medical treatment appointment time period or the same two-hour medical-legal exam time period; the number of interpretations the interpreter has already done during the same time period; and the total number of interpretations the interpreter is scheduled to do during the same time period. The medical provider shall note this information in the medical-legal exam report or medical file.

Authority cited: Labor Code sections 133, 4050, 4060, 4600, 4600.3, 4614, 4616, 4620, 4621, 5307.3, 5710, 5811. Reference: Sections 3209.3, 3209.5, 3700, 4600, 4616, 4616.3, 4620, 4621, 5401; and Government Code sections 11435.30, 11435.35, and 68562.

§9935. Notice of Right to Interpreter.

(a) The notice of hearing, deposition, medical-legal evaluation, or other setting shall include a statement explaining the right to have a qualified interpreter present if the injured worker does not proficiently speak or understand the English language. A party designated the responsibility to to serve a notice shall include the statement in the notice.

(b) The party or individual requiring interpreter services under the Article shall communicate the need to the employer as soon as the need becomes known.

Authority cited: Sections 133, 4600, 5307.3, 5710 and 5811, Labor Code; and Section 11435.60, Government Code. Reference: Sections 4600, 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.60, 11513 and 68562, Government Code.

§9936. Computation of Fees.

(a) Hearings and Depositions.

(1) A qualified interpreter at hearings and depositions shall be paid the rates set forth in section 9937, provided the billing requirements of section 9938 are met.

(2) Interpreters at hearings or depositions are entitled to one-half day or full day interpretation rates, as set forth in section 9937, even if the interpretation time is for less time than a complete half-day or full day time period, as those time periods are defined in sections 9930(f) and (e), respectively. Interpreter time for preparation of the deponent immediately prior to the deposition shall be included in this time and paid accordingly.

(3) Interpreter Services Beyond Eight Hours or Reading Deposition to Deponent.

(A) Interpreter services at hearings or depositions which exceed 8 hours during a full day shall be paid pro-rata for each hour worked, even if the interpretation is for less than one additional hour, based upon the full-day rate, for the category of interpreter used. An interpreter shall not be paid more than one hour of pro-rata hourly, full-day rate, for each hour worked beyond 8 hours in a full day.

(B) Interpreters reading the deponent the deposition prior to signing, or reading of prior volumes to the deponent in preparation for a continued deposition, shall be paid the equivalent of one hour of the full day deposition rate for the category of interpreter used, for the first hour of interpretation and thereafter in pro-rata in 15 minute increments. In no case shall an interpreter be paid more than the one hour of the pro-rata hourly, for each hour of interpretation for events under this subdivision.

(4) Cancellation fees. Unless the party responsible for providing for the interpreter notifies the interpreter of a cancellation at least 24 hours prior to the time the service is to be provided, the

interpreter shall be paid no less than the minimum one-half day fee as set forth in section 9937. It shall be the obligation of the injured worker to make every reasonable attempt to notify the employer in sufficient time of any need to cancel the services of an interpreter.

(5) American Sign Language. Fees for interpreter services in American Sign Language at hearings shall be governed by California Code of Regulations, title 8, Article 1.3, "Public Disability Accommodations", Chapter 4.5, commencing with section 9708.1 et. seq.

(b) Medical Treatment Appointments or Medical-Legal Evaluations.

(1) A qualified interpreter at medical treatment appointments or medical-legal evaluation shall be paid the rates set forth in sections 9937, provided the billing requirements of section 9938 are met.

(2) The fees payable for interpreter services at medical treatment appointments or medical-legal evaluations shall be paid based upon the rates set forth section 9937, and shall be computed based upon the total number of interpretations at medical treatment appointments or medical-legal evaluations conducted during the same one-hour or two-hour time period, respectively.

(3) Interpreters are entitled to the minimum one-hour rate at medical treatment appointments and the minimum of two-hour rate at medical-legal evaluations.

(4) Interpretations at second or successive medical treatment appointments or medical-legal evaluations that overlap with the first interpretation time period, but are not completed during the first interpretation time period, are considered separate, billable, time periods, to which the interpreter is entitled to bill an additional one-hour or two-hour fee, respectively.

(5) If interpreting at the same medical treatment appointment or medical-legal evaluation exceeds the one-hour or two-hour minimum time period, respectively, the interpreter shall be paid an additional amount, pro-rata, in fifteen (15) minute increments, for time interpreting beyond the minimum one or two hour time period.

(6) Cancellation fees. Unless the party responsible for providing for an interpreter at a medical treatment appointment or the medical-legal evaluation notifies the interpreter of a cancellation at least 24 hours prior to the time the service is to be provided, the interpreter shall be entitled to be paid no less the equivalent of one hour of compensation for each medical treatment appointment cancelled and two hours of compensation for each medical-legal exam cancelled.

(c) Computation of Billing Fees at Multiple Hearings, Depositions, Medical Treatment Appointments, or Medical-Legal Exams During the Same Time Period.

(1) Fees for interpreter services for the second and each successive interpretation during the same time period as the initial interpretation shall each be billed at 75% of billing rate of the first interpretation, as set forth in section 9937. The total fee amount owed to the interpreter for all interpretations done during the same time period is the total of the first interpretation fee plus

75% of that fee for each additional interpretation during the same time period. The total fee amount shall then be divided by the number of interpretations done during the same time period. The resulting dollar amount is the interpreter fee owed for each interpretation done during the same time period. The interpreter shall bill each claims administrator based upon the number of interpretations done for that claims administrator during the same time period.

(2) If there is a fee agreement between an interpreter service provider and employer for a greater or lesser fee than set forth in section 9937, as permitted by subdivision (d), the interpreter shall bill that employer based upon the agreement. However that fee agreement shall not be used to compute the total fee amount referenced in subdivision (c)(1) to be billed to employers with whom the interpreter service provider does not have a separate fee agreement.

(d) Nothing in this section precludes an agreement for payment of interpreter services, made between the interpreter or agency for interpreting services and the employer, regardless of whether or not such payment is less than, or exceeds, the fees set forth in this section and section 9937.

Authority cited: Sections 133, 4600, 5307.3, 5710 and 5811, Labor Code; and Sections 11435.25 and 11435.60, Government Code. Reference: Sections 4600, 5710 and 5811, Labor Code; Sections 11138, 11435.15, 11435.20, 11435.25, 11435.30, 11435.55, 11435.40, 11435.55, 11435.60, and 68562, Government Code; California Code of Regulations, Title 8, Article 1.3, Chapter 4.5, Sections 9708.1 et. seq.

§9937. Billing Fees and Codes.

The following billing codes and rates shall be used to compute billing for interpreter services, except for fee rates reached by mutual agreement or excluded, as set forth in sections 9936 (a)(5) and (d).

	<u>HEARINGS AND DEPOSITIONS</u>	<u>Dollar Rate</u> <u>First Hearing During Time</u> <u>Slot</u>	<u>Additional</u> <u>Hearing(s)</u> <u>In Same Time Slot</u>
<u>HDI - 1</u>	<u>Interpretation at a Workers' Compensation Appeals Board Hearing by a certified interpreter for hearings and depositions.</u>	<u>Half day = \$255.00</u> <u>Full day = \$448.00</u> <u>More than 8 hrs., pro-rate added hours, in 1 hour increments.</u>	<u>\$191.25 each</u> <u>\$336.00 each</u>
<u>HDI - 2</u>	<u>Interpretation at a Workers' Compensation Appeals Board Hearing by a provisionally certified interpreter for hearings and depositions.</u>	<u>Half day = \$141.00</u> <u>Full day = \$232.00</u> <u>More than 8 hrs. pro-rate added hours in 1 hour increments.</u>	<u>\$105.75</u> <u>\$174.00</u>
<u>HDI - 3</u>	<u>Interpretation at a setting similar to a Workers' Compensation Appeals Board Hearing, as determined by the Administrative Director, by a certified interpreter for hearings and</u>	<u>Half day = \$255.00</u> <u>Full day = \$448.00</u> <u>More than 8 hrs., pro-rate added hours in 1 hour increments.</u>	<u>\$191.25 each</u> <u>\$336.00 each</u>

	<u>depositions.</u>		
<u>HDI - 4</u>	<u>Interpretation at a setting similar to a Workers' Compensation Appeals Board Hearing, as determined by the Administrative Director, by a provisionally certified interpreter for hearings and depositions.</u>	<u>Half day = \$141.00</u> <u>Full day = \$232.00</u> <u>More than 8 hrs., pro-rate added hours in one-hour increments.</u>	<u>\$105.75</u> <u>\$174.00</u>
<u>HDI - 5</u>	<u>Interpretation at an arbitration or I & A conference by a certified interpreter for hearings and depositions.</u>	<u>Half day = \$255.00</u> <u>Full day = \$448.00</u> <u>More than 8 hrs., pro-rate added hours in one-hour increments.</u>	<u>\$191.25 each</u> <u>\$336.00 each</u>
<u>HDI - 6</u>	<u>Interpretation at an arbitration or I & A conference by a provisionally certified interpreter for hearings and depositions.</u>	<u>Half day = \$141.00</u> <u>Full day = \$232.00</u> <u>Exceeding 8 hrs. in one day, pro-rata thereafter in one-hour increments.</u>	<u>\$105.75</u> <u>\$174.00</u>
<u>HDI - 7</u>	<u>Interpretation at a deposition of an injured worker or witness, by a certified interpreter for hearings and depositions. Includes time for deponent preparation immediately prior to deposition.</u>	<u>Half day = \$255.00</u> <u>Full day = \$448.00</u> <u>Exceeding 8 hrs. in one day, pro-rata thereafter in one-hour increments.</u>	<u>N/A</u>
<u>HDI - 8</u>	<u>Interpretation at a deposition of an injured worker or witness, by a provisionally certified interpreter for hearings and depositions. Includes time for deponent preparation immediately prior to deposition.</u>	<u>Half-day = \$141.00</u> <u>Full day = \$232.00</u> <u>Exceeding 8 hrs. in one day, pro-rata thereafter in one-hour increments.</u>	<u>N/A</u>
<u>HDI - 9</u>	<u>Reading deposition to deponent by a certified interpreter prior to signing or reading prior volumes of depositions to deponent in preparation for continued deposition.</u>	<u>Minimum one hour pro-rata rate, based upon the full day rate of \$448. Pro-rata thereafter, in 15 minute increments.</u>	<u>N/A</u>
<u>HDI-10</u>	<u>Reading deposition to deponent by a provisionally certified interpreter prior to signing or reading prior volumes of depositions to deponent in preparation for continued deposition.</u>	<u>Minimum on- hour pro-rata rate, based upon the full day rate of \$232.00. Pro-rata thereafter, in 15 minute increments.</u>	
	<u>MEDICAL TREATMENT APPOINTMENT</u>	<u>Dollar Rate</u> <u>First Appointment During</u> <u>Time Slot</u>	<u>Additional</u> <u>Appointment(s)</u> <u>In Same Time Slot</u>
<u>MTI - 1</u>	<u>Interpretation at a medical treatment appointment by a certified interpreter</u>	<u>\$86.50 per hr., with one-hour minimum. Pro-rata thereafter, in</u>	<u>\$64.88 per hr., with One-hour minimum.</u>

	<u>for medical treatment appointments and medical-legal evaluations.</u>	<u>15 minute increments.</u>	<u>Pro-rata thereafter, in 15 minute increments.</u>
<u>MTI - 2</u>	<u>Interpretation at a medical treatment appointment by a provisionally certified interpreter for medical treatment appointments and medical-legal exams.</u>	<u>\$57.75 per hr., with one-hour minimum. Pro-rata thereafter, in 15 minute increments.</u>	<u>\$43.31 per hr., with One-hour minimum. Pro-rata thereafter, in 15 minute increments.</u>
	<u>MEDICAL-LEGAL EVALUATION</u>	<u>Dollar Rate First Exam During Time Slot</u>	<u>Additional Exam(s) In Same Time Slot</u>
<u>MLI - 1</u>	<u>Interpretation at a medical-legal evaluation, a comprehensive medical-legal evaluation, follow-up medical-legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims administrator, the administrative director, or the appeals board, by a certified interpreter for medical treatment appointments and medical-legal evaluations.</u>	<u>\$86.50 per hr., with two-hour minimum of \$173.00. Pro-rata hourly rate thereafter, in 15 minute increments.</u>	<u>\$64.88 per hr., with Two-hour minimum of \$129.75. Pro-rata hourly rate thereafter, in 15 minute increments.</u>
<u>MLI - 2</u>	<u>Interpretation at a medical-legal evaluation, a comprehensive medical-legal evaluation, or follow-up medical-legal evaluation, or an examination by the physician to which an injured worker submits at the request of the claims administrator, the administrative director, or the appeals board, by a provisionally certified interpreter for medical treatment appointments and medical-legal evaluations.</u>	<u>\$57.75 per hr., with two-hour minimum of \$115.50. Pro-rata hourly rate thereafter, in 15 minute increments.</u>	<u>\$43.31 per hr., with Two-hour minimum of \$86.62. Pro-rata hourly. Rate thereafter, in 15 minute increments.</u>

Authority cited: Sections 133, 4607.2(b), 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4603.2(b)(1), 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.25, 11435.30, 11435.35, 11435.40, 11435.55, 11513 and 68562, Government Code.

§9938. Interpreter Billing Requirements for Payment.

(a) Every bill submitted to the employer for services provided under this Article shall include an itemization of services provided and the charge associated for each service. The bill must contain :

(1) The name of the interpreter;

(2) The interpreter's certification number, if any, and name of the organization that certified the interpreter;

(3) The name of the injured worker;

(4) The claim number;

(5) The date the interpreting service under this Article was rendered;

(6) The type of interpreter service provided, i.e. certified interpreter for administrative hearings and depositions; provisionally certified interpreter for administrative hearings and depositions; certified interpreter for medical treatment appointments and medical-legal evaluations; or provisionally certified interpreter for medical treatment appointments and medical-legal evaluations;

(7) The language interpreted;

(8) The billing code for the service as set forth in section 99378;

(9) The time spent on the interpretation;

(10) If there was more than one qualifying interpretation during the same time period, the total number of such interpretations shall be stated on each bill sent to each employer billed for that time period;

(11) The amount billed to the particular employer to whom the bill is directed; and

(12) A declaration by the interpreter stating: "I declare under penalty of perjury that the information contained in this report and its attachments, if any, is true and correct to the best of my knowledge and belief." The declaration shall be signed and dated by the interpreter and indicate the county and state in which it was signed.

(b) Proof of certification may be requested by the employer and shall be provided by the certified interpreter for the purposes of hearings and depositions if the interpreter is not listed on the State Personnel Board webpage at <http://jobs.spb.ca.gov/Interpreterlisting> or the California Courts webpage at <http://courts.ca.gov/programs-interpreters.htm>.

(c) Proof of certification may be requested by the employer and shall be provided by the certified interpreter for the purposes of medical treatment appointments and medical-legal evaluations if the interpreter is not listed in the CCHI; National Board website directory; the California Courts webpage at <http://courts.ca.gov/programs-interpreters.htm>. or listed as a medical interpreter by CALHR as appears on the State Personnel Board Website at <http://jobs.spb.ca.gov/InterpreterListing>.

Authority cited: Sections 133, 4600, 4603.2, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4603.2(b)(1), 4620, 4621, 5710 and 5811, Labor Code; and Sections 11435.25, 11435.30, 11435.35, 11435.40, 11435.55, 11513 and 68562, Government Code.

§9939. Time for Payment; Effective Date.

(a) A bill for interpreter services which constitutes a medical treatment service under Labor Code section 4600 shall be paid or contested by the employer under the timeframes and procedures set forth in Labor Code section 4603.2 and California Code of Regulations, title 8, sections 9792.5.4 through 9792.5.15.

(b) A bill for interpreter services which constitutes a medical-legal expense as defined in California Code of Regulations, title 8, section 9793(h) shall be paid or contested by the employer under the timeframes and procedures set forth in Labor Code section 4622 and section 9794 of these regulations.

(c) All bills for interpreter services that are not medical treatment or medical-legal expenses shall be paid under the timeframes and procedures required by subdivision (b) of this section.

Authority cited: Sections 133, 4600, 4603.2, 4622, 5307.3, 5710 and 5811, Labor Code. Reference: Sections 4600, 4603.2, 4603.6, 4620, 4621, 4622, 5710 and 5811, Labor Code; and Sections 68562 and 11513, Government Code; California Code of Regulations, Title 8, sections 9792.5.4 through 9792.5.15, 9793 and 9794.

