

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.1	Commenter questions if the term “medical treatment” will be defined.	Michelle Thomas American Insurance Group May 21, 2013 Written Comment	No. Medical treatment is defined by Labor Code section 4600.	None
9795.1(a)	<p>Commenter suggests the following revised language:</p> <p>(a) "Claims Administrator" means the person or entity responsible for the payment of <u>compensation for any of the following administering a California workers' compensation claim</u>: 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</p>	Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment	Agree with suggested added language. Disagree with suggested deleted language as it provides clarification.	Will add suggested new language.

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	<p>uninsured employer, joint powers authority, the Self-Insurers' Security Fund, or the California Insurance Guarantee Association (CIGA) .</p> <p>Commenter recommends the changes to maintain the current meaning of the term for consistency and clarity. The claims administrator is the entity responsible for administering the claim. The entity or person ultimately responsible for payment is not necessarily the entity administering the claim. The Claims Administrator acts on behalf of the person or entity ultimately responsible for the payment of compensation. Commenter opines that the proposed new definition of "Claims Administrator" will mislead and confuse the regulated public, will generate disputes, and is not necessary.</p>			
9795.1(b) and (c)	<p>Commenter strongly urges that section 9795.1 (b) and (c) be omitted from the proposed regulations for the following reason:</p> <p>Interpreters should all be paid on an hourly basis for their services, not on a</p>	<p>Luis M. Echeverry President/CEO Continental Interpreting Services June 5, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	None

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	<p>half day or full day basis. While the half day/full day business model works fine for interpreters that work in our court system, it does not work well for interpreters that work in the private sector and have to travel to different venues such as law offices, WC hearing boards, doctor's offices or medical facilities. Doing away with the half day/full day business model will make the development of a fee schedule (which is yet to be established) a lot easier across the board. Currently interpreters that work in Northern California work only on an hourly basis with a two hour minimum regardless of the type of assignment they are doing. This is also true for interpreters that provide services in other states throughout the United States. Commenter opines that by standardizing the interpreter's fees to an hourly basis with a two hour minimum will reduce costs sometimes associated with some legal assignments such as depositions that go barely past the three and a half hour mark by not having to pay an interpreter a full day fee, but rather an hourly fee.</p>			
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9795.1(e)	<p>Commenter notes that the definition for a “Provisionally Certified” interpreter has been stricken but yet it appears in §9795.1.5(a)(2), §9795.1.6(a)(3), §9795.3(a) and §9795.3(b).] [§9795.1.5(a)(2) describes provisionally certified as meaning “deemed qualified.”</p> <p>Commenter questions “who” is doing the deeming? Is it the monolingual doctor that needs the interpreter in the first place that will determine whether the interpreter possesses the language skills and the medical terminology necessary to translate for the injured worker? What standards, if any, will be needed to consider someone deemed qualified?</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>Disagree. Labor Code section 4600(g) and 4620 (d) both refer to when an interpreter may be provisionally certified. Under §9595.1.5 “deemed qualified” is by agreement of the parties or determined by the judge. Under §9795.1.6 interpreters are “provisionally certified” only if the claims administrator gives prior written consent or the language requires interpreter services in a language other than one of the 8 listed. However, the interpreters must still be qualified to interpret at medical treatment appointments or medical legal exams.</p>	None
9795.1.5	<p>Commenter is concerned that the section enables non-certified individuals to interpret in such important matters as hearings, depositions and arbitrations. Commenter opines that California's limited English-proficient workers have a right to justice, including understanding what is happening in their case. Access to justice requires that the people interpreting for them</p>	<p>Noemi O. Gallardo Administrative Hearings Interpreter June 5, 2013 Written Comment</p>	<p>Disagree. Labor Code section 4600(g) and 4620 (d) both refer to when an interpreter may be provisionally certified. Under §9595.1.5 “deemed qualified” is by agreement of the parties or determined by the judge.</p>	None

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	<p>meet high standards of fluency and professionalism to help ensure limited English proficient workers have equal access to programs and services as others who do not face similar language barriers. Commenter states that those high standards can only be met by those who have gone through training and testing to show they are able to communicate effectively and conduct themselves as professionals adhering to strict ethical codes. Commenter is concerned that certified interpreters who have gone through rigorous testing and training and who pay annual fees to renew their licenses stand to lose valuable employment opportunities to individuals who may not be qualified to serve as interpreters.</p>			
9795.1.5	<p>Commenter suggests the following revised language:</p> <p>a) To qualify to be paid for interpreter services at a hearing, deposition or arbitration, the interpreter shall be</p> <p>(1) certified <u>or deemed certified as a court interpreter or administrative hearing interpreter as, which means</u> listed on the State Personnel Board</p>	<p>Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment</p>	<p>Disagree with suggested changes. “Deemed certified” interpreters would not be listed in the spb webpage.</p> <p>The typo will be corrected.</p>	<p>The typo will be corrected.</p>

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	<p>webpage at http://jobs.sbp.ca.gov/InterpreterListin g/ http://jobs.spb.ca.gov/InterpreterListin g/ or the California Courts webpage at http://courts.ca.gov/programs-interpreters.htm; or</p> <p>(2) provisionally certified, which means deemed-qualified to perform interpreter services when a certified court or administrative hearing interpreter cannot be present, either:</p> <p>(A) at a deposition by agreement of the parties, or</p> <p>(B) at a hearing or arbitration 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.</p> <p>Commenter states that according to</p>			

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	<p>Labor Code Section 5811,</p> <p>“A qualified interpreter is a language interpreter who is certified or deemed certified, pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code.”</p> <p>Government Code Section 11435.55 requires an interpreter used in a hearing to be certified pursuant to Section 11435.30, which pertains to certified court and administrative hearing interpreters.</p> <p>Section 11435.55 also specifies that the hearing agency may “provisionally qualify” another interpreter when a certified interpreter cannot be present.</p> <p>The change to the State Personnel Board link corrects a typographical error.</p>			
9795.1.5 and 9795.1.6	<p>Commenter points out the subsection (a)(1) in both sections, the webpage link should read:</p> <p>http://jobsspb.ca.gov/InterpreterListing/</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association June 5, 2013</p>	Agree	The typos will be corrected

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		Written Comment		
9795.1.5(2)(A)	Commenter questions if there is any consideration that as a courtesy, the interpreter (certified or not) contact the paying entity prior to attending the appointment to determine if they are authorized.	Michelle Thomas American Insurance Group May 21, 2013 Written Comment	Disagree. There are too many types of business arrangements to add this type of detail.	None
9795.1.5(a)(2)(A) and (B)	<p>Commenter states that these two subsections do not include any criteria to guide parties, judges or arbitrators on how to decide whether a person is qualified to perform interpreter services.</p> <p>Commenter also states that these two subsections do not clarify whether the provisional certification lasts for the brief period of time that the activity in question takes place or whether it endures indefinitely.</p>	Noemi O. Gallardo Administrative Hearings Interpreter June 5, 2013 Written Comment	Disagree. Under §9795.1.5 the judge can make a finding as he will have the parties and interpreter before him. The section also states: "...that the interpreter is qualified to interpret <i>at the hearing...</i> " meaning only for that hearing. Under §9795.1.6, there must either be prior written consent or in the limited case where the language is not one of the 8 listed, the physician may use another interpreter but must note the fact in the record of the medical evaluation.	None
9795.1.6	Commenter requests that the Division recognize the National Board of Certification for Medical Interpreters (NBCMI) to credential interpreters since there are currently 100 medically certified interpreters in California who have obtained their medical certification through NBCMI.	<p>Marcelo G. Lopez Certified Medical Interpreter May 28, 2013 Written Comment</p> <p>Mike Sanchez MS Interpreting</p>	Agree.	The section will be revised to include the National Board.

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		June 5, 2013		
9795.1.6	<p>Commenter suggests the following revised language:</p> <p>(a) To qualify to be paid for interpreter services at a medical treatment appointment, medical examination performed at the request of the employer or administrative director, or medical legal exam, the interpreter shall be</p> <p>(1) a certified interpreter, which means listed on the State Personnel Board webpage at http://jobs.sbp.ca.gov/InterpreterListing/ http://jobs.spb.ca.gov/InterpreterListing/ or the California Courts webpage at http://courts.ca.gov/programs-interpreters.htm; or</p> <p>(2) certified for medical treatment appointments, medical examinations, or medical legal exams, which means passing the Certification Commission for Healthcare Interpreters (CCHI) exam evidenced by a CCHI credential indicating that the interpreter passed the exam and specifying the language.</p>	<p>Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment</p>	<p>Disagree that “medical examination at the request of the employer or AD” is necessary. Such examinations fall under a medical legal exam.</p> <p>Agree to correct typo.</p>	<p>The typo will be corrected.</p>

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	<p>and inclusion on the Administrative Director's list of certified interpreters for the purposes of medical treatment appointments. The certification procedure is set forth on the CCHI webpage at http://www.healthcareinterpretercertification.org/. 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</p> <p>(3) provisionally certified as an interpreter for purposes of medical treatment appointments, medical examinations, 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 provisionally may use another interpreter if that fact is noted in the record of the medical evaluation.</p>			

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	<p>Commenter states that “medical examinations” performed pursuant to Labor Code section 4050 et al., may be neither medical treatment appointments nor medical legal exams, adding this term will clarify that this section also covers interpreter services performed at medical examinations performed at the request of the employer or Administrative Director.</p> <p>Commenter opines that it is important that interpreters that are certified by the Administrative Director for the purposes of medical treatment appointments appear on the list maintained by the administrative director pursuant to Government Code Section 11435.35 to inform those arranging for interpreters and to avoid disputes over which interpreters are certified for the purposes of medical treatment appointments.</p>		<p>Agree. Section 9795.5 will be amended to state where certified interpreters are listed on line.</p>	<p>Section 9795.5 will be amended.</p>
9795.1.6(3)	<p>Commenter opines that this section conflicts with Labor Code section 5811(b)(1) that states:</p> <p>It shall be the responsibility of any party producing a witness requiring an</p>	<p>Victoria Torres May 23, 2013 Written Comment</p>	<p>Disagree. Labor Code §5811 (b)(1) only applies to producing a “witness,” not arranging for an interpreter at a medical examination. Labor Code §§4600(g) and 4620(d)</p>	<p>None</p>

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	<p>interpreter to arrange for the presence of a qualified interpreter.</p> <p>Commenter opines that by allowing claims administrators to choose the interpreter by prior written consent as stated in this subsection violates Labor Code section 5811(b)(1) violating injured workers due process rights.</p>		<p>both provide that the employer must consent in advance if the interpreter is not certified or provisionally certified.</p>	
9795.1.6(a)(2)	<p>Commenter opines that according to the language in this subsection, the CCHI credential requires him to ensure that his staff meets the following criteria:</p> <p><i>“Associate Healthcare Interpreter™ (AHI™) – An AHI™ has been tested on only a part of the knowledge, skills and abilities that are required of a healthcare interpreter. Since the AHI™ examination covers only part of the knowledge, skills and abilities required of healthcare interpreters and does not test an individual’s actual interpreting skills and abilities, a certification is not awarded to those who pass this test. Rather, the AHI™ credential (a certificate indicating that the individual has passed the first step in becoming a CHI™ practitioner and</i></p>	<p>Luis Martinez Human Resources Manager Nationwide Interpreting, Inc. May 22, 2013 Written Comment</p>	<p>As set forth on the CCHI webpage, for Spanish, Arabic, and Mandarin, the interpreter must pass both the AHI and CHI exams to be certified. For other languages, the interpreter must just pass the AHI exam. (No regulatory language suggested.)</p>	None

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	<p><i>has shown that he/she has the knowledge required of a Certified Healthcare Interpreter™) is available for all interpreters except those for whom CHI™ is available. AHI™ is a credential but is not equivalent to certification.”</i></p> <p>Commenter would like to know if his staff would be required to take both components or take just one to produce the CHI Credential if they are not already California State Interpreters.</p>			
9795.1.6(a)(2)	<p>Commenter questions why the DIR would go out of state to a new, mediocre 501 (c) organization to 'test' and issue a certificate when the college and university system of this great state has a superior education system from which we all hold either Certificates, AA's and Bachelor's Degrees! Commenter also would like to note that CCHI CANNOT test the internship program which is part of the curriculum in California's current Medical Interpreting Programs. Commenter states that interpreters have already paid staggering fees in tuition, (up to \$24,000) for a 2 year</p>	<p>Carmela Delgado, CMI Qualified Medical Interpreters Instructor/Trainer Advocate/Department of Managed Care May 27, 2013 Written Comment</p>	<p>Disagree. Before being eligible to take the CCHI exam, an interpreter must meet eligibility requirements including education, academic or non-academic healthcare training and linguistic proficiency in English and the target language. The California Healthcare Interpreting Association, which has developed healthcare interpreting standards, are pushing for the adoption of a set of qualifications for healthcare</p>	None

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	<p>program. Commenter opines that this tuition fee is inclusive of the academic testing which is STATE testing.</p> <p>Commenter opines that it is irresponsible to believe that interpreters should pay CCHI for a test that would hold no weight as this is a new company that came on board (2009) because there is money to be made. Commenter states that laws and regulations differ from state to state. Commenter opines when CCHI goes out of business when they can no longer get funding those certificates will be of NO VALUE to interpreters. On the other hand, California Degrees and Certificates will always be valid.</p>		<p>interpreters in CA. In 2/13 they posted this statement: “The California Healthcare Interpreting Association’s mission includes promoting the healthcare interpreter profession and providing education and training to healthcare professionals. Therefore, CHIA recognizes that two national organizations – the National Board of Certification for Medical Interpreters and the Certification Commission for Healthcare Interpreters – are offering interpreters’ certification with the goal of measuring and demonstrating minimum competency in healthcare interpreting. We recognize too that our members can choose to seek either or both of these certifications as a means to further their professional prospects.” By adopting the CCHI certification, DWC will have a recognized test that will allow an objective standard for determining if an interpreter is</p>	

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9795.1.6(a)(2)	<p>Commenter suggests the following revised language:</p> <p>“...certified for medical treatment appointments for medical legal exams, which means passing the Certification Commission for Healthcare Interpreters (CCHI) written examination and, for interpreters for who an oral performance examination is available, also passing that examination.”</p> <p>CCHI offers two credentials – the Certified Healthcare Interpreter™ certification (currently available in Spanish, Arabic and Mandarin), and the Associate Healthcare Interpreter™ credential (available for interpreters of all other languages). Commenter opines that if the regulation only requires passing of a single examination, it may be too narrow to ensure healthcare interpreters achieve the highest credential available to them. AHI™ credential holders will need to pass one examination but to achieve CHI™ certification, individuals must pass <i>two</i> examinations (a written examination and an oral performance examination).</p>	<p>Natalya Mytareva, Chair, Certification Commission for Healthcare Interpreters (CCHI) June 3, 2013 Written Comment</p>	<p>certified.</p> <p>Agree in part. Section 9795.1.6 will be amended to refer to both the certification or credential and to note that the credential period lasts for four years. Because the CCHI clearly provides that interpreters must pass both the passing AHI and CHI test for Spanish, Arabic and Mandarin, further clarification is not necessary here.</p>	<p>Section 9795.1.6 (a)(2)(A) will be amended to state: <u>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</u></p>

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	<p>Commenter believes that the regulation text as currently written could be read to allow Spanish, Arabic or Mandarin interpreters who only pass the written exam (singular) to be recognized as certified when CCHI will not grant them certification until they pass two examinations.</p> <p>Second, the proposed regulation states: “. . .evidenced by a CCHI credential indicating that the interpreter passed the exam <i>and specifying the language.</i>” Under current CCHI policy, AHI™ credential holders must take only one examination, administered solely in English. Upon passing that examination, an individual would receive a certificate but the certificate does not specify the language. This is due to the fact that the AHI™ credential tests the knowledge needed to be an effective healthcare interpreter but the examination is non-language specific and thus does not test language proficiency or interpreting skills and abilities. Commenter strongly believes that since the CHI™ certification is only currently available in three languages that the Division should also accept the AHI™ credential as valid for reimbursement but the current language of the regulation</p>		<p>DWC will make the non-substantive change of adding “if indicated” for clarity.</p>	<p><u>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@healthcareintepretercertification.org or to CCHI, 1725 I Street NW, Suite 300, Washington, DC, 20006 (866-969-6656);</u></p>

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	<p>would exclude AHI™ credential holders. Commenter states that the AHI™ credential is the highest available credential to these healthcare interpreters. If the intent of the Division is to recognize both the AHI™ and CHI™ credentials for the purposes of Division certification, commenter suggests deleting “and specifying the language” since the AHI™ credential does not specify the credential holder’s language on the certificate.</p>			
9795.1.6(a)(2)	<p>Commenter recommends if the intention of regulation 9795.1.6(a)(2) is to allow certification for all languages through CCHI, that the regulation be amended to clarify that certification or credentialing through CCHI, as appropriate meets the requirements for certification.</p> <p>The certification procedure set forth in the webpage listing at http://www.healthcareinterpretercertification.org in the proposed regulation identifies two separate exams given by the CCHI. Currently, the CCHI lists certification for the Certified Healthcare Interpreter (CHI) for only</p>	<p>Peggy Thill Claims Operations Manager State Compensation Insurance Fund June 5, 2013 Written Comment</p>	Agree.	The section will be amended to state certification/ credential.

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	<p>3 languages: Spanish, Mandarin and Arabic. For all other languages, the CCHI provides a credential of Associate Healthcare Interpreter (AHI), which is not a certification. However, interpreters passing the AHI exam receive a <i>certificate</i> indicating the interpreter has passed the exam. The AHI credential does not assess or test the interpreter’s proficiency or language skills.</p> <p>In addition, for the languages where there is an oral performance exam available in the language for which the interpreter is seeking certification, currently Spanish, Mandarin and Arabic, the interpreter is not eligible for the CCHI (AHI) credential. The interpreter must take and pass both the AHI and CHI exams. Under these circumstances the certification becomes limited by the oral performance language exams currently available through CCHI.</p> <p>Based on the very limited number of languages available for certification through CCHI, it would seem to create a disproportionate number of interpreters being credentialed and</p>			

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	<p>deemed “certified” under 9795.1.6(a)(2) which may be inconsistent with the intention of a certified interpreter. The distinction between the two terms “certification” and “credential” creates a disparity in the level and type of examination required for interpreters electing to apply through CCHI. Commenter state that the proposed regulation utilizes the terms “credential” and “certification” in the regulation and should be clarified to promote consistency within the regulation.</p>			
9795.1.6(a)(3)	<p>Commenter questions if this section means that when an interpreter that is certified according to §9795.1.6(a)(1) or §9795.1.6(a)(2) there is no need to ask for preauthorization from the claims administrator?</p> <p>Commenter opines that for those interpreters that are provisionally certified under §9795.1.6(a)(3) there should be a deadline included in this paragraph indicating how many days does the claims administrator have to respond to a written pre-authorization request from an interpreting service provider that is seeking to use a provisionally certified interpreter.</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>If the interpreter is certified according to §9795.1.6, the claims administrator is responsible for paying the interpreter. However, it would still be a good practice to get preauthorization.</p> <p>Disagree. This would go beyond the authority of Labor Code sections 4600(g) and 4620(d).</p>	<p>None</p> <p>None</p>

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	<p>Commenter opines that a lack of response or an untimely response to such request should deem the request granted.</p> <p>Commenter states that §9795.1.6(a)(3) (A) states that a provisionally certified interpreter may be used for the purposes of medical treatment appointment or medical legal exam if the claims administrator has given prior written consent to the interpreter that provides the services.</p> <p>Commenter questions if in the case of the mega out-of-state interpreting companies, will the claims administrator also be required to give prior written consent to the interpreter that provides the services?</p> <p>Commenter suggests that the sentence be amended to read:</p> <p>“... in which case the physician may use a provisionally certified interpreter for the required language.”</p>		<p>The regulations apply to all interpreters who interpret at medical appointments or medical legal exams, even if the company is based out of state.</p> <p>Agree to make a nonsubstantive correction to the syntax.</p>	<p>None</p> <p>Subdivision (a)(3): corrected the syntax in the last phrase to: “...in which case the physician may use a provisionally certified interpreter if that fact is noted in the record of the medical evaluation.”</p>

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9795.3	Commenter questions if a Spanish speaking employee presents for repeat chiropractic, physical therapy and acupuncture visits if the interpreter is still required to be paid.	Michelle Thomas American Insurance Group May 21, 2013 Written Comment	If the injured employee cannot effectively communicate with his or her treating physician because he or she cannot proficiently speak or understand the English language, then the injured worker is entitled to the services of a qualified interpreter during medical treatment appointments.	None
9795.3	Commenter opines that the interpreter should not need the approval of the insurance carrier for interpreting at medical treatment appointments because they never approve it and/or just ignore the requests. Commenter states that the insurance adjusters never answer their telephone inquiries.	Anonymous May 21, 2013 Written Comment	Disagree. Labor Code §§ 4600(g) and 4620(d) require that the employer consents in advance if the interpreter is not certified.	None
9795.3	Commenter strongly urges the Administrative Director to adopt a clearly defined, structured fee schedule for <u>all</u> interpreting services. In addition, commenter strongly recommends that the fee schedule include clear guidelines addressing the appropriateness and frequency of interpreter services at medical treatment appointments. Commenter requests that until an interpreter fee	Peggy Thill Claims Operations Manager State Compensation Insurance Fund June 5, 2013 Written Comment	This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	None

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	<p>schedule is officially adopted, the regulations should eliminate all references to a “market rate” as well as reference to the 2-hour minimum for interpreting services provided at medical treatment appointments.</p> <p>Commenter states that the proposed regulations continue to permit an interpreter to bill for his or her services at the “market rate.”</p> <p>Commenter opines that allowing interpreters to establish individual “market rates” for their services has been, and continues to be, disruptive to the workers’ compensation system. Requiring bill payers to review documentation submitted by an interpreter to support his/her market rate and then issue payment timely has been an ongoing challenge for claims administrators. The shift to e-billing, and the shorter timeframes involved, will make it increasingly difficult to pay “market rate” interpreter bills timely and will subsequently result in increased penalties. Commenter opines that a well-defined fee schedule for interpreter services will promote consistency and help expedite the bill payment process while reducing</p>			

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	<p>litigation and claims costs.</p> <p>In addition to maintaining the “market rate,” the proposed regulations continue to require claims administrators to pay a 2-hour minimum for interpreting services at events other than hearings, arbitrations and depositions. Commenter states that the 2-hour minimum does not appear to be reasonable, particularly at medical treatment appointments. Interpreters should only be reimbursed for actual time spent interpreting, and only those services that are <i>reasonable and necessary</i> should be reimbursable.</p>			
9795.3	<p>Commenter suggests the following revised language:</p> <p>(a) Fees for services performed by a certified, or provisionally certified, <u>or provisionally qualified</u> interpreter, upon request of an employee who does not proficiently speak or understand the English language, shall be paid <u>pursuant to sections 9795.1.5 and 9795.1.6</u> by the claims administrator for any of the following events:</p>	<p>Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment</p>	<p>Disagree. Section 9795.1.5 and 9795.1.6 already state that to be qualified to be paid the interpreter must be certified or provisionally certified. The judge or arbitrator may make a finding that the interpreter is qualified to interpret and therefore is provisionally certified. The physician may allow an interpreter to be provisionally certified if the injured worker requires interpreter services in a language not listed.</p>	None

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	<p>Section 11435.55 specifies that the hearing agency may “provisionally qualify” another interpreter when a certified interpreter cannot be present.</p> <p>Commenter states that in order to qualify for payment, the conditions in section 9795.1.5 ad 9795.1.6 must be met.</p>			
9795.3	Commenter is concerned about the inclusion of “market rate” in lieu of a fee schedule.	Steven Suchil Assistant Vice President/Counsel American Insurance Association June 5, 2013 Written Comment	This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	None
9795.3(3) General Question – Utilization Review	Commenter would like to know if the medical treatment is denied by utilization review if the interpreters are still required to get paid.	Michelle Thomas American Insurance Group May 21, 2013 Written Comment	This comment goes beyond the scope of these regulations.	None
9795.3(a)(1)	<p>Commenter suggests the following revised language:</p> <p>“(1) an examination by a physician to which an injured employee submits at the requests of the claims administrator, the administrative director, <u>the claimant’s attorney</u> or</p>	Rod Olguin Certified Interpreter June 3, 2013 Written Comment	Disagree. The example presented would fall under (3) medical legal exams.	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the appeals board;”</p> <p>Commenter suggests that “the claimant’s attorney” be added: For the purpose of choosing a doctor from a QME panel as an example.</p>			
9795.3(a)(4)	<p>Commenter questions if the language in this subsection means that the interpreter would only get paid for those depositions that are requested by the claims administrator? What about when the attorney for the claimant needs to depose the employer or a witness to the injury? Does the interpreter get paid for his/her services?</p> <p>Commenter states that it is not the claims administrator whom requests the services of an interpreter to: prepare the deponent immediately prior to the deposition; read (translate) the deposition transcript to the deponent prior to signing; read (translate) prior volumes to a deponent in preparation for continuation of a deposition; be present for an appeals board hearing or arbitration.</p> <p>Commenter recommends that the subsection be revised to read:</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p> <p>Labor Code sections 5710 and 5811 provide that an interpreter may render services at a deposition and that the employer is required to pay for the interpreter fees that are reasonably, actually and necessarily incurred, provided they are in accordance with the fee schedule. This section is based on the authority of Labor Code section 5710.</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“A deposition of an injured employee or any person claiming benefits as a dependent of an injured employee, at the request of the <u>claimant’s attorney</u>, including the following related events:”</p> <p>Commenter recommends adding the following event:</p> <p><u>“The translation of settlement documents to the claimant prior to signing; such as a Compromise and Release or Stipulations with Request for Award.”</u></p>			
9795.3(a)(6) and (7)	<p>Commenter recommends that these subsections be stricken.</p> <p>Commenter opines that the Administrative Director does not have statutory authority to require a claims administrator to pay for interpreting services provided at a conference held by an information and assistance officer, or interpreter services provided in other unspecified settings. Government Code sections 11435.15 and 11435.25 indicate that the Department of Industrial Relations is</p>	Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment	This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	responsible for paying for those services.			
9795.3(a)(6) and (7)	<p>Commenter recommends that these subsections be stricken.</p> <p>Commenter states that according to Government Code Sections 11435.15 and 11435.25 the Department of Industrial Relations is responsible for paying for these services. Commenter opines that it does not appear that the Administrative Director has the statutory authority to require a claims administrator to pay for interpreting services provided at a conference held by an information and assistance officer, or interpreter services provided in other unspecified settings.</p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association June 5, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	None
9795.3(b)	<p>Commenter opines that the rules pertaining to interpreter charges while at WCAB hearings should be amended.</p> <p>Commenter states that often interpreters are covering several applicants at the same time. They should be required to pro rate their charges between the various applicants they are servicing, rather than being entitled to charge 1/2 day plus for each one.</p>	<p>Gloria M. Rosson Greenspan & Rosson May 30, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that attorneys are ethically bound to pro rate their charges if they are making appearances on multiple matters at the same time and opines that interpreters should have to do the same.</p> <p>Commenter opines that the 1/2 day minimum is excessive and that the interpreter should only be allowed to charge for actual time.</p>			
9795.3(b)	<p>Commenter suggests the following revised language:</p> <p>(b) The following fees for interpreter services provided by a certified, or provisionally certified, <u>or provisionally qualified</u> interpreter pursuant to sections 9795.1.5 and <u>9795.1.6</u> shall be presumed to be reasonable:</p> <p>Section 11435.55 specifies that the hearing agency may “provisionally qualify” another interpreter when a certified interpreter cannot be present.</p>	<p>Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment</p>	<p>Disagree. Section 9795.1.5 and 9795.1.6 already state that to be qualified to be paid the interpreter must be certified or provisionally certified. The judge or arbitrator may make a finding that the interpreter is qualified to interpret and therefore is provisionally certified. The physician may allow an interpreter to be provisionally certified if the injured worker requires interpreter services in a language not listed.</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that in order to qualify for payment, the conditions in section 9795.1.5 and 9795.1.6 must be met.</p>			
9795.3(b)(1)	<p>Commenter opines that there needs to be more clarification on how an interpreter is reimbursed and proof of market rate. In the past commenter has submitted proof of similar services that have been paid and proof of fees from other interpreter's and have been denied stating that her documentation does not qualify as proof of market rate. Commenter opines that the way that 8 CCR 9795.3(b)(1) is currently written leaves it open to the claims administrator to translate it the way they see fit. One bill review carrier wants copies of canceled checks another wants copies of paid invoices, another one wants proof of pricing from other agencies.</p> <p>Commenter questions how a provider is to translate what is considered "Proof of Market Rate"???</p> <p>Commenter states that this needs to be written so that both parties understand what is considered "Proof of Market</p>	<p>Jennifer O'Riley Reimbursement & Contract Specialist Century Pacific May 22, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.3(b)(1) and (2)	<p>Rate”.</p> <p>Commenter states that interpreters are currently dealing with claims administrators demanding proof of market rate with every invoice. Therefore commenter recommends this section be revised and the following language be included:</p> <p><u>“Documentation to establish the market rate shall be provided to each of the claims administrators that is being billed for interpreting services no more than once annually or any time that there is a change in the rate.”</u></p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	<p>None</p>
9795.3(b)(1) and (2)	<p>Commenter suggests the following revised language:</p> <p>(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</p>	<p>Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment</p>	<p>Agree to correct this typographical error.</p>	<p>The typographical error will be corrected.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>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.</p> <p>(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 <u>except that the minimum payment of two hours, and the market rate shall not apply to medical treatment appointments</u>. 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.</p>		<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that unlike forensic appointments, medical treatment appointments are brief. The physician typically spends 15 minutes face-to-face with the injured employee, and for a mid-level medical treatment appointment (99213) the maximum reasonable physician fee is \$56.93. Commenter opine that it is not reasonable to pay the interpreter more than the physician for the same service time by requiring a minimum payment of two hours for 15 minutes of service time, nor is it reasonable to pay the interpreter more by requiring payment at an inflated “market rate.”</p>			
9795.3(b)(2)	<p>Commenter questions if there will be any rate changes. Commenter states that the current rate is \$11.25 per quarter hour or \$45.00 per hour. Commenter states that most companies bill twice that amount.</p>	<p>Michelle Thomas American Insurance Group May 21, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	None
9795.3(b)(3)	<p>Commenter questions that since the definition of qualified interpreter has been removed (9795.1(f)), if the term “qualified interpreter” should instead read “provisionally certified</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>Disagree. The reference is to interpreters listed in the Superior Court master listing for the county. Also, this comment goes beyond the</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	interpreter”?		scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	
9795.3(b)(3)(i)	<p>Commenter seeks clarification of the term “non-represented (excluded) employees at Title 2, CCR § 599.631(a).”</p> <p>Commenter states this section is not clear to him. He asks if this means that if an interpreter has to travel over 25 miles to translate for an employee that is non-represented by counsel that the interpreter is not entitled to mileage reimbursement?</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	None
9795.3(b)(3)(ii)	<p>Commenter notes that interpreters are the only profession that has a lower rate for travel time than their regular minimum hourly rate.</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	None
9795.3(e)	<p>Commenter suggests the following revised language:</p> <p>(e) The fees set forth in subdivision (b) shall be presumed reasonable for services provided by provisionally certified or provisionally qualified</p>	<p>Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment</p>	<p>Disagree. The regulations define the term “provisionally certified.”</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>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 <u>or provisionally qualified</u> interpreter.</p> <p>(f) It is the responsibility of the party producing a witness requiring an interpreter to arrange for the presence of the interpreter. <u>If the injured employee is subject to an MPN that includes providers of interpreter services, the party producing the witness shall arrange for the presence of an interpreter in the MPN.</u></p> <p>Section 11435.55 specifies that the hearing agency may “provisionally qualify” another interpreter when a certified interpreter cannot be present.</p> <p>Commenter opines clarification that</p>		<p>Disagree that this suggested language avoids confusion.</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>interpreter services must be provided pursuant to an MPN where applicable is needed to avoid confusion and disputes.</p>			
9795.3(f)	<p>Commenter suggests that this section be revised to spell out that this applies to medical appointments as well. Commenter states that the injured worker is in a sense the witness at an AME appointment; there could be a misconception that the word “witness” would apply only in a legal setting such as a deposition or a trial.</p>	<p>Rod Olguin Certified Interpreter June 3, 2013 Written Comment</p>	<p>Disagree. Subdivision (f) follows the language of Labor Code section 5811(b).</p>	None
9795.3(f)	<p>Commenter proposes the following revised language:</p> <p><u>It is the responsibility of the party producing a witness requiring an interpreter at a deposition, hearing or arbitration to arrange for the presence of the interpreter. If the applicant requires an interpreter at a medical treatment appointment or evaluation, the party arranging the appointment shall arrange for the presence of an interpreter. Any party, other than the applicant, who requires interpreting services shall bear the cost of the interpreting services.</u></p>	<p>Peggy Thill Claims Operations Manager State Compensation Insurance Fund June 5, 2013 Written Comment</p>	<p>Disagree that this suggested language avoids confusion.</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that while this subsection clarifies the party responsible for arranging an interpreter at a hearing or deposition, it is unclear who is responsible for arranging interpreter services for conferences, arbitrations, medical treatment appointments, or medical-legal evaluations. In addition, it is unclear who may be considered a “witness” entitled to interpreting services. Failure to clearly define who is entitled to interpreting services and who is responsible for scheduling an interpreter in these situations may result in disputes as well as the presence of multiple interpreters.</p>			
9795.3(f)	<p>Commenter suggests the following revised language:</p> <p>(f) It is the responsibility of the party producing a witness requiring an interpreter to arrange for the presence of the interpreter. <u>However, if the injured employee is subject to an MPN that includes interpreter services, the party producing the witness shall arrange for the presence of an interpreter from the MPN list.</u></p>	<p>Steven Suchil Assistant Vice President/Counsel American Insurance Association June 5, 2013 Written Comment</p>	<p>Disagree that this suggested language avoids confusion.</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.5	Commenter states that the information that will be available on the DWC website regarding medical interpreters is not described. Commenter requests that the address of an interpreter's place of business be included so that when searching the list for an interpreter, needless travel expense is not incurred.	Steven Suchil Assistant Vice President/Counsel American Insurance Association June 5, 2013 Written Comment	Agree to revise. The regulation will be amended to list the website directories of CCHI and the National Board. Both list the city and state of the interpreters.	The regulation will be amended to list the website directories of CCHI and the National Board. Both list the city and state of the interpreters.
9795.5(b)	<p>Commenter suggests the following revised language:</p> <p>b. The Administrative Director shall maintain a list of certified interpreters for the purposes of medical treatment appointments, <u>medical examinations performed at the request of the employer or Administrative Director,</u> and medical legal exams. An interpreter who meets the qualifications of section 9795.1.6(a)(2) must apply to the Administrative Director to be included on the list and must present a copy of the Certification Commission for Healthcare Interpreters credential indicating that the interpreter passed the exam and specifying the language.</p>	Brenda Ramirez Claims and Medical Director – CWCI June 5, 2013 Written Comment	Disagree. Per Labor Code section 4620 (a), the suggested language is unnecessary.	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>The list shall be reviewed and revised no less than annually, and shall be made available on the website www.dir.ca.gov or upon request.</p> <p>Commenter states that “medical examinations” performed pursuant to Labor Code section 4050 et al., may be neither medical treatment appointments nor medical legal exams, adding this term will clarify that this section also covers interpreter services performed at medical examinations performed at the request of the employer or Administrative Director.</p>			
General Comment	<p>Commenter opines that medical interpreters must be given time to take the exams administered by CCHI. Commenter employs and interpreter that took the exam. She applied on Oct. 9, 2012, took the written and oral exams, and was informed she passed only yesterday. The whole process took almost 6 months, longer than the process by State Personnel Board who has stopped administering medical and admin hearing interpreter exams.</p>	<p>S. James Tsui SJT & Associates Interpreting Agency May 22, 2013 Written Comment</p>	<p>Agree to request an Oct. 1, 2013 effective date.</p>	<p>DWC will request an Oct. 1, 2013 effective date.</p>
General Comment	<p>Commenter opines that the National Board of Certification for Medical</p>	<p>Victor Fridman Certified Interpreter</p>	<p>Disagree. This comment goes beyond the scope of the</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Interpreters should be stopped from continuing to issue certification numbers of six digits begging with 100____ as these are the same numbers issued to interpreters certified for Administrative Hearings in Workers' Compensation. Commenter states that interpreters who are not qualified to interpret at the WCAB and depositions are fraudulently presenting the certification numbers used by the National Board which are for medical purposes only.</p>	<p>6/2/2013 Written Comment</p>	<p>proposed regulations.</p>	
<p>General Comment</p>	<p>Commenter opines that these proposed regulations should apply only to medical appointments. Commenter opines the Med-Legal evaluations (QME and AME) require a higher standard of certification like the one that was issued by the State of California. Commenter opines that the state should resume given those tests. Commenter opines that these regulations are the result of the insurance lobby who has been trying for years to water down the standards so that they can pay really low fees. Commenter states that this will result will be that the state will fail to attract competent interpreters and that injured</p>	<p>Victor Fridman Certified Interpreter 6/2/2013 Written Comment</p>	<p>Disagree. Labor Code section 4620 (d) concerns interpreters for medical legal exams and sets forth the same standards as Labor Code section 4600, which concerns medical appointments.</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	workers will be denied their right to a competent interpreter thereby diminishing their chances of receiving their due medical treatment and benefits.			
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