

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.1	<p>Commenter opines that an interpreter that has 15 or more years of experience interpreting for workers' compensation participants, both in medical offices and at the Division of Worker's Compensation court, should be automatically deemed a "qualified interpreter" and included in the DWC database as a qualified interpreter.</p> <p>Commenter suggests that the experienced interpreter be given the opportunity to continue working during a 3 to 5 year period while pursuing the necessary education to become a certified interpreter.</p> <p>Commenter opines that if these options are not adopted that these experienced interpreters would be shut out of being able to work and therefore unable to obtain certification due to lack of financial resources. There may not be enough certified medical interpreters to go around causing physicians to reschedule appointments causing delays in treatment to the injured worker. Commenter states that certified interpreters charge more for their services which would raise insurance</p>	<p>Silvia Morgan Spanish Interpreter March 13, 2013 Written Comment</p>	<p>Reject: the regulations will be revised to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the Certification Commission for Healthcare Interpreters (CCHI) exam.</p> <p>Reject.</p> <p>Reject. If there are no interpreters available, the parties can agree before the exam in writing and the physician can provisionally certify the interpreter.</p>	<p>§9795.1 will be revised. The definitions for "certified," "provisionally certified" and "qualified interpreter" for purposes of medical treatment appointments will be deleted.</p> <p>§9795.1.6 will be added to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the Certification Commission for Healthcare Interpreters (CCHI) exam. An interpreter may be "provisionally certified" if the claims administrator has given prior written consent to the</p>

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	costs.			interpreter, or 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.
9795.1 (c) and (d)	Commenter requests that the time periods provided in these subdivisions be clarified to exclude meal periods.	Seven Suchil, Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA) March 19, 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
9795.1(a)	Commenter finds this definition ambiguous and cites the following: 11435.30(b) Court interpreters certified pursuant to Section 68562,	Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013	Agree.	The subdivision is deleted.

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	<p>and interpreters listed on the State Personnel Board's recommended lists of court and administrative hearing interpreters prior to July 1, 1993, shall be deemed certified for purposes of this section.</p> <p>Commenter opines that administrative hearing interpreters that were certified AFTER July1, 1993 are not deemed as certified.</p>	Written Comment		
9795.1(a) 9795.5(b)	<p>Commenter states that there are currently not enough interpreters available in the State of California to perform workers' compensation medical jobs.</p> <p>Commenter questions what are the qualifications and the necessity of having a "medical interpreter" as he is aware of different aptitudes required for different types of medical exams and medical settings.</p> <p>Commenter states that because the SPB has not been administering exams for medical interpreters, he suggests that for a workers' compensation interpreter to be qualified, he/she needs to pass an exam administered by</p>	S. James Tsui SJT & Associates March 17, 2013 Written Comment	Agree in part.	<p>§9795.1 will be revised. The definitions for "certified," "provisionally certified" and "qualified interpreter for purposes of medical treatment appointments will be deleted.</p> <p>§9795.1.6 will be added to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of</p>

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	<p>other legitimate organizations like the National Board of Certification for Medical Interpreters or The Certification Commission for Healthcare Interpreters (and others).</p> <p>Commenter opines that the division should grandfather in the interpreters who have been performing workers' compensation medical translation for years onto the DWC list. Commenter suggests that a minimum of 2-3 doctors of different specialties vouch for the interpreters that they have been performing this service in the stated language for (a minimum) of 3 years (or more as stated by the doctors) as they have been treating workers' compensation patients and that they find them competent and qualified in interpreting medical terminologies commonly used in the workers' compensation field.</p>			<p>passing the Certification Commission for Healthcare Interpreters (CCHI) exam. An interpreter may be "provisionally certified" if the claims administrator has given prior written consent to the interpreter, or 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> <p>§9795.5 will also be</p>

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				revised to be consistent with §9795.1.6.
9795.1(a)	<p>Commenter states that this section makes reference to Government Code or section 68562 and note that the correct reference should be 68566. Commenter notes that reference was made to 68562 as authority throughout the proposed regulations and notes that 68566, is the correct reference.</p>	<p>Jason Schmelzer Legislative Advocate California Coalition on Workers’ Compensation</p> <p>Jeremy Merz California Chamber of Commerce March 18, 2013 Written Comment</p>	§68562 is cited in Government Code §11435.30. Nonetheless, the subdivision will be deleted.	The subdivision will be deleted.
9795.1(a)	<p>Commenter recommends the addition following language in italics and highlighted in yellow:</p> <p>"Certified" means an interpreter who is certified in accordance with subdivision (e) of Sections 11513 11435.30 and or 11435.35 of the Government Code or Section 68562 of the Government Code <i>and is included on the State Personnel Board or Judicial Council lists as provided in Section 9795.5 (a).</i></p>	<p>Seven Suchil, Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA) March 19, 2013 Written Comment</p>	Agree to revise. Subdivision (a) will be deleted.	<p>§9795.1 will be revised. The definitions for “certified,” “provisionally certified” and “qualified interpreter for purposes of medical treatment appointments will be deleted.</p> <p>§9795.1.5(a) will be added to state certified means listed on the State Personnel Board</p>

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				<p>webpage at http://jobs.sbp.ca.gov/InterpreterListing/ or the California Courts webpage at http://courts.ca.gov/programs-interpreters.htm</p> <p>§9795.1.6 will be added to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the Certification Commission for Healthcare Interpreters (CCHI) exam. An interpreter may be “provisionally certified” if the claims administrator has given prior written consent to the interpreter, or the injured worker requires interpreter</p>
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				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.
9795.1(a)	<p>Commenter points out the following correction:</p> <p>(a)"Certified" means an interpreter who is certified in accordance with Sections 11435.30 or 11435.35 of the Government Code or Section 68562 68566 of the Government Code.</p> <p>According to LC sections 4600(f), 4620(a), and 5811(b)(2), a certified interpreter is a language interpreter certified pursuant to Government Code Sections commencing with 11435.05, or Section 68566.</p> <p>Commenter requests the division</p>	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	<p>§68562 is cited in Government Code §11435.30. Nonetheless, the subdivision will be deleted.</p> <p>Agree with the definition of certified.</p>	<p>§9795.1 will be revised. The definitions for "certified," "provisionally certified" and "qualified interpreter for purposes of medical treatment appointments will be deleted.</p> <p>§9795.1.5(a) will be added to state certified means listed on the State Personnel Board</p>

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	clarify that certified interpreters are interpreters who on the date of service are included on the State Personnel Board or Judicial Council lists of certified interpreters pursuant to section 9795.5(a) and must submit evidence of the certification with a billing or upon request.			<p>webpage at http://jobs.sbp.ca.gov/InterpreterListing/ or the California Courts webpage at http://courts.ca.gov/programs-interpreters.htm</p> <p>§9795.1.6 will be added to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the Certification Commission for Healthcare Interpreters (CCHI) exam. An interpreter may be “provisionally certified” if the claims administrator has given prior written consent to the interpreter, or the injured worker requires interpreter</p>

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				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.
9795.1(a); 9795.1(e) 9795.1(f)	<p>Commenter would like to know if the state’s emergency and proposed regulatory text of the definition of a qualified interpreter will be deleted after the state has reinstated testing for Administrative and Medical Interpreters?</p> <p>a) Would the definition language be re-amended based on the contingency that it would ONLY be applicable to languages other than those designated pursuant to Section 11435.40 of the Government Code?</p> <p>b) If no amendment or deletion of the definition once reinstatement the test occurs, then WHAT will be the</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p> <p>Joyce Altman Court Certified Interpreter – CWCIA March 19, 2013 Oral Comment</p>	Agree to revise.	<p>§9795.1 will be revised. The definitions for “certified,” “provisionally certified” and “qualified interpreter for purposes of medical treatment appointments will be deleted.</p> <p>§9795.1.5(a) will be added to state certified means listed on the State Personnel Board</p>

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	<p>purpose of testing under provisions of SB863?</p> <p>c) Will the definition of a “qualified interpreter for purposes of medical treatment” eventually be equivalent to that of a “certified medical interpreter”?</p>			<p>webpage at http://jobs.sbp.ca.gov/InterpreterListing/ or the California Courts webpage at http://courts.ca.gov/programs-interpreters.htm. An interpreter for hearings, depositions and arbitrations may also be “provisionally certified” by agreement of the parties or by the workers’ compensation judge or arbitrator.</p> <p>§9795.1.6 will be added to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the Certification Commission for Healthcare Interpreters (CCHI)</p>

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				exam. An interpreter may be “provisionally certified” if the claims administrator has given prior written consent to the interpreter, or 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.
9795.1(b)	Commenter recommends that this section be amended to include CIGA, UEF and SIF in the definition of a claims administrator.	Seven Suchil, Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA)	Agree.	The subdivision will be revised.

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9795.1(b)	Commenter requests that the division revise this definition to include CIGA, UEF and SIF.	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	Agree.	The subdivision will be revised.
9795.1(c)	<p>Commenter suggests the following revision:</p> <p>(c) "Full day" means <u>services performed which exceed one-half day, more than four hours up to and including 8 hours, not including meal periods.</u></p>	Benda Ramirez Claims and Medical Director CWCI March 19, 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.	Nothing at this time.
9795.1(d); (e); (f)	<p>Commenter suggests the following revision:</p> <p>(d) "<u>One-half Half day</u>" means <u>up to and including four hours, not including meal periods.</u></p> <p>(e) "<u>Overtime</u>" means <u>any hour or fraction thereof exceeding eight hours and only if the workday exceeds eight hours, not including meal periods.</u></p> <p>(f) "<u>Hourly</u>" means <u>any hour or fraction thereof, not including meal</u></p>	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	<p>Note: This is based on the emergency version and not the revised version that was published.</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>	Nothing at this time.

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	<p><u>periods.</u></p> <p>(1) When appearing at any Workers' Compensation Appeals Board hearing, (or) daytime arbitration, all or any part of a morning or afternoon session.</p> <p>(2) When appearing at a deposition, all or any part of 3.5 hours.</p> <p>(3) When appearing at an evening arbitration, all or any part of 3 hours.</p> <p>Commenter seeks modification of the above language to define the terms used in an interpreter fee schedule based on that of the Federal Courts.</p>			
9795.1(e)	<p>Commenter states that this section conflicts with 11435.55 which states the hearing agency and the physician have the right to “provisionally qualify” an interpreter:</p> <p>(a) An interpreter used in a hearing shall be certified pursuant to Section 11435.30. However, if an interpreter certified pursuant to Section 11435.30 cannot be present at the hearing, the hearing agency shall have discretionary authority to</p>	Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment	<p>Agree.</p> <p>However, Labor Code sections 4600(g) and 4620(d) specifically provide when a non-certified or non-provisionally certified interpreter may be used: if the claims administrator has given prior written consent to the interpreter, or the injured worker requires interpreter services in a language other</p>	<p>§9795.1 will be revised. The definitions for “certified,” “provisionally certified” and “qualified interpreter for purposes of medical treatment appointments will be deleted.</p> <p>§9795.1.5(a) will be</p>

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	<p>provisionally qualify and use another interpreter.</p> <p>(b)An interpreter used in a medical examination shall be certified pursuant to Section 11435.35. However, if an interpreter certified pursuant to Section 11435.35 cannot be present at the medical examination, the physician provisionally may use another interpreter if that fact is noted in the record of the medical evaluation.</p>		<p>than Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese, and Vietnamese.</p>	<p>added to state certified means listed on the State Personnel Board webpage at http://jobs.sbp.ca.gov/InterpreterListing/ or the California Courts webpage at http://courts.ca.gov/p rograms- interpreters.htm. An interpreter for hearings, depositions and arbitrations may also be “provisionally certified” by agreement of the parties or by the workers’ compensation judge or arbitrator.</p> <p>§9795.1.6 will be added to require interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the</p>

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				<p>Certification Commission for Healthcare Interpreters (CCHI) exam. An interpreter may be “provisionally certified” if the claims administrator has given prior written consent to the interpreter, or 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>
9795.1(e)	<p>Commenter states that the definition of “provisionally certified” is confusing and should be split in order</p>	<p>Jason Schmelzer Legislative Advocate California Coalition</p>	<p>Agree. The section will be deleted and redrafted in sections 9795.1.5 and</p>	<p>See new language quoted above.</p>

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	<p>to more clearly describe how a provisionally certified interpreter may differ in medical and non-medical situations.</p> <p>Commenter recommends the following modifications:</p> <p>"Provisionally certified" means, <u>for other than medical treatment appointments</u>, an interpreter who is deemed to be qualified to perform services under this article, when a certified interpreter cannot be present, (1) by <u>written prior</u> agreement of the parties for any interpreter services provided under this article other than at an appeals board hearing or arbitration. or (2) by the treating physician at a medical treatment appointment, if the injured worker requires interpreting services in a language other than the languages designated pursuant to section 11435.40 of the Government Code.</p> <p>-and-</p> <p>"Provisionally certified" means, <u>for medical treatment appointments</u>, an</p>	<p>on Workers' Compensation</p> <p>Jeremy Merz California Chamber of Commerce March 18, 2013 Written Comment</p>	<p>9795.1.6.</p>	

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	<p>interpreter who is deemed to be qualified to perform services under this article, when a certified interpreter cannot be present, (1) by agreement of the parties for any services provided under this article other than at an appeals board hearing, or arbitration. <u>or (2) by the treating physician at a medical treatment appointment, and the claims administrator has given written prior consent to the selection of the individual who provides the interpreting service, or if the injured worker requires interpreting services in a language other than the languages designated pursuant to section 11435.40 of the Government Code.</u></p>			
9795.1(e)	<p>Commenter recommends the addition following language in italics and highlighted in yellow:</p> <p>"Provisionally certified" means an interpreter who is deemed to be qualified to perform services under this article, when a certified interpreter cannot be present, <u>(1) by (A) the residing officer at an appeals board hearing, arbitration, at the request of a party or parties, or (B) agreement of the parties for any services provided under this article other than</u></p>	<p>Seven Suchil, Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA) March 19, 2013 Written Comment</p>	<p>Agree.</p>	<p>See new language quoted above.</p>

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	<p>at an appeals board hearing, or arbitration, or formal rehabilitation conference. or (2) by <u>prior written agreement with the treating physician at a medical treatment appointment, if the injured worker requires interpreting services in a language other than the languages designated pursuant to section 11435.40 of the Government Code.</u></p>			
9795.1(e)	<p>Commenter states that a “certified” interpreter – whether certified completely or provisionally, is only required for an examination pursuant to Labor Code Sec. 4600(f). A “qualified” interpreter is allowed for medical treatment appointments per Sec. 4600(g) – which states, “To be a qualified interpreter for purposes of medical treatment appointments, an interpreter is not required to meet the requirements of subdivision (f), but shall meet any requirements established by rule by the administrative director that are substantially similar to the requirements set forth in Section 1367.04 of the Health and Safety</p>	<p>Mark Webb Vice-President and General Counsel PacificComp March 18, 2013 Written Comment</p>	<p>Agree in general. The section will be deleted and redrafted in sections 9795.1.5 and 9795.1.6.</p>	<p>See new language quoted above.</p>

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	<p>Code.”</p> <p>Commenter opines that if the Division is looking to facilitate providing interpreter services when the specific requirements of certification or qualification cannot be met, then to do so requires both a “provisional certification” and a “provisional qualification”. The proposed regulations conflate the two requirements in a way not intended by statute.</p> <p>Commenter states that the plain language of the amendments to Labor Code § 4600 in Senate Bill 863 (De Leon) demonstrate that the Legislature acknowledged that the requirements for interpreting for purposes of an examination – developing evidence in an adjudicatory process – are more rigorous than for an appointment with a treating physician. Commenter opines that to even suggest that the requirements for certification are necessary for a medical treatment appointment is not consistent with the provisions of subdivision (g) of Section 4600.</p>			
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	<p>Commenter does not dispute the wisdom and practicality of what the Division is proposing for provisional recognition of an interpreter's abilities, but notes that for purposes of clarity, and for purposes of developing a fee schedule for these services, he suggests that the bright line between certified and qualified interpreters be maintained in all aspects.</p>			
9795.1(e)	<p>Commenter suggests the following revision:</p> <p>(eg) "Provisionally certified" means, <u>for other than medical treatment appointments</u>, an interpreter who is deemed to be qualified to perform services <u>under this article</u>, when a certified interpreter cannot be present, <u>(1) by written prior</u> agreement of the parties for <u>any interpreter</u> services provided <u>under this article</u> other than at an appeals board hearing or arbitration, <u>or (2) by the treating physician at a medical treatment appointment, if the injured worker requires interpreting services in a language other than the languages designated pursuant to section</u></p>	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment</p>	<p>Note: This is based on the emergency version and not the revised version that was published.</p> <p>Agree.</p>	<p>See new language quoted above.</p>

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	<p>11435.40 of the Government Code.</p> <p>(eh) "Provisionally certified" means, for medical treatment appointments, an interpreter who is deemed to be qualified to perform services under this article, when a certified interpreter cannot be present, (1) by agreement of the parties for any services provided under this article other than at an appeals board hearing, or arbitration, or (2) by the treating physician at a medical treatment appointment, and the claims administrator has given written prior consent to the selection of the individual who provides the interpreting service, or if (2) the injured worker requires interpreting services in a language other than the languages designated pursuant to section 11435.40 of the Government Code.</p> <p>Commenter opines that separate definitions are needed to describe more clearly how a provisionally certified interpreter for a medical treatment appointment may differ from a provisionally certified interpreter for other events.</p>			
9795.1(e)	Commenter is concerned about the	Rod Olguin	Reject. There are too many	Section 9795.3(f) is

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	<p>process of obtaining pre-authorization to utilize a “provisionally certified” interpreter. Commenter requests that the division place a time frame for which the employer/claims administrator must respond to pre-authorization requests into the proposed regulations.</p> <p>Commenter would also like to know if pre-authorization is required for the use of a “certified interpreter.”</p> <p>Commenter would also specifically like to know if pre-authorization is required when utilizing a ‘certified interpreter for an AME or QME exam.</p>	<p>State Certified Interpreter March 19, 2013 Oral Comment</p>	<p>variables such as which party is obtaining the interpreter, how much notice the party requesting the interpreter will have before the appointment, or what agreements may already be in place.</p> <p>Agree. Only provisionally certified interpreters require prior written consent. This will be clarified in sections 9795.1.5 and 9795.1.6.</p> <p>Agree. Only provisionally certified interpreters require prior written consent. This will be clarified in sections 9795.1.5 and 9795.1.6.</p>	<p>added to state that the party producing a witness requiring an interpreter should arrange for the presence of the interpreter.</p> <p>See the new language quoted above.</p>
<p>9795.1(e); 9795.3(e)</p>	<p>Commenter opines that clarification is imperative with regard to identifying the actual party or parties as stated in the definition of “provisionally certified.” Commenter states that without identification of the “request of a party or parties” there is conflict with the criteria for reimbursement under section 9795.3(e)</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p>	<p>Note: Seems to be citing the emergency version and not the current version. Agree. The section will be deleted and redrafted in sections 9795.1.5 and 9795.1.6.</p>	<p>See the new language quoted above.</p>
<p>9795.1(f)</p>	<p>Commenter states that evidence of an interpreter’s qualification can be</p>	<p>Melinda Hayes President & CEO</p>	<p>Agree. The section will be deleted and redrafted in section</p>	<p>§9795.1.6 will be added to require</p>

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	<p>established through national certification such as CCHI and NBCMI in addition to state programs. Commenter opines that restricting the evidence of interpreter qualification to certifications from only California educational and vocational institutions limits the resources she and other interpretation providers have to service appointments and thereby raises the cost and reduces the availability of quality interpretation.</p>	<p>MHayes March 7, 2013 Written Comment</p> <p>Holly Mikkelson State and Federally Certified Court Interpreter March 19, 2013 Oral Comment</p>	<p>9795.1.6.</p>	<p>interpreters to be certified by the State Personnel Board, California Courts, or have evidence of passing the Certification Commission for Healthcare Interpreters (CCHI) exam. An interpreter may be “provisionally certified” if the claims administrator has given prior written consent to the interpreter, or 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</p>

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				is noted in the record of the medical evaluation.
9795.1(f)	<p>Commenter finds definition ambiguous.</p> <p>Commenter opines that this definition applies only to lien claimants and that this section does not pertain to PQME's, AME's, QME's, and/or any re-evaluation services.</p>	<p>Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment</p>	<p>Agree. The section will be deleted and redrafted in section 9795.1.6.</p>	<p>Revision will state: § 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 (1) certified, which means listed on the State Personnel Board webpage at http://jobs.sbp.ca.gov/InterpreterListing/ or the California Courts webpage at http://courts.ca.gov/programs-interpreters.htm; or (2) certified for medical treatment appointments or</p>

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				<p>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. 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 (3) provisionally certified as an</p>

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				<p>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 provisionally may use another interpreter if that fact is noted in the record of the medical evaluation.</p>
9795.1(f)	<p>Commenter states that there is conflicting language: (f) states a “Qualified interpreter” means an interpreter who is certified however</p>	<p>Luis Echeverry President and CEO Continental Interpreting Services</p>	<p>Agree. The section will be deleted and redrafted in section 9795.1.6.</p>	<p>See language quoted above.</p>

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	<p>section (b) states the following definition:</p> <p>(b) “Qualified interpreter for purposes of medical treatment appointments” means an interpreter who has a documented and demonstrated proficiency in both English and the other language; a fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and education and training in interpreting ethics, conduct and confidentiality, which may include the standards promulgated by the California Healthcare Interpreters Association or the National Council on Interpreting in Healthcare. Evidence of these criteria may be established by a certificate of completion of a Medical or Healthcare Interpreter Certification Program issued by a California educational or vocational institution.</p>	<p>March 16, 2013 Written Comment</p>		
9795.1(f)	<p>Commenter opines that the Division’s definition of “qualified interpreter for purposes of medical treatment appointments” is vague, ambiguous, highly contradictory and incomplete.</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013</p>	<p>Agree. The section will be deleted and redrafted in section 9795.1.6.</p>	<p>See language quoted above.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter submitted a copy of the California State Personnel Board's Bilingual Services Program General Information dated 5/2/05 and a Report for the Personnel Resources and Innovations Division dated April 2001. [Note: copies of these reports are available upon request.]</p>	<p>Written Comment March 19, 2013 Oral Comment</p> <p>Veronica Perez CWCIA March 19, 2013 Oral Comment</p> <p>Bill Posada Interpreter Agency Owner March 19, 2013 Oral Comment</p>		
9795.1(f)	<p>Commenter questions what the actual criteria is for education and training along with the actual requirements of documentation to demonstrate that an interpreter is qualified?</p> <p>a) What are the actual programs that are being accepted by the DIR/DWC?</p> <p>b) Who are the state's approved vendors of the actual programs that meet this requirement (i.e. educational schools or training centers)?</p> <p>c) Will the qualified interpreter be mandated to actively attend courses at a university level institution or other</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p> <p>Veronica Perez CWCIA March 19, 2013 Oral Comment</p>	<p>Agree. The section will be deleted and redrafted in section 9795.1.6.</p>	<p>See language quoted above.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>reputable interpreter instruction program while performing work as a qualified interpreter (i.e. externship or internship)?</p> <p>d) What is actually meant by "certificate of completion," i.e. academic diploma, degree, credentials, title, comprehensive test, etc? And is there a minimum requirement of training hours/content to define a "certificate of completion?"</p> <p>e) Will the qualified interpreter be tested? If so, by whom and when?</p> <p>f) Will the qualified interpreter be mandated to prove enrollment and status of any state approved medical interpreter testing/program?</p> <p>g) How will the qualified interpreter prove their proficiency of actual interpreting skills?</p> <p>h) Is showing a certificate of completion issued by a DIR/DWC accepted school and/or program considered a maximum or a minimum requirement to be deemed a qualified interpreter?</p>			
9795.1(f)	Commenter recommends the addition	Seven Suchil,	Agree to revise. The section	See language quoted

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>following language in italics and highlighted in yellow:</p> <p><u>“Qualified interpreter for purposes of medical treatment appointments” means an interpreter who has a documented and demonstrated proficiency in both English and the other language; a fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and education and training in interpreting ethics, conduct and confidentiality, which may include the standards promulgated by the California Healthcare Interpretersing Association or the National Council on Interpreting in Healthcare. Evidence of these criteria shall be established by a certificate of completion of a Medical or Healthcare Interpreter Certification Program, <i>that meets these standards</i>, issued by a California educational or vocational institution <i>and who appears on the Administrative Director’s list of Qualified Interpreters.</i></u></p>	<p>Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA) March 19, 2013 Written Comment</p>	<p>will be deleted and redrafted in section 9795.1.6. DWC will require the interpreter to have evidence that s/he passed the exam. Although section 9795.5 will list the interpreters who send in evidence of passing the exam, because there may be a lag time in posting the names, being on the will not be a requirement.</p>	<p>above.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.1(f)	<p>Commenter suggests the following revision:</p> <p>(fi) “Qualified interpreter for purposes other than medical treatment appointments” means a language interpreter certified in accordance with (a)-an interpreter who has a documented and demonstrated proficiency in both English and the other language; a fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and education and training in interpreting ethics, conduct and confidentiality, which may include the standards promulgated by the California Healthcare Interpreting Association or the National Council on Interpreting in Healthcare. Evidence of these criteria shall be established by a certificate of completion of a Medical or Healthcare Interpreter Certification Program issued by a California educational or vocational institution.</p> <p>Commenter opines that an additional definition pursuant to Labor Code section 4600(f) is needed to clarify</p>	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment</p>	<p>Note: This is based on the emergency version and not the revised version that was published.</p> <p>Agree to revise. The section will be deleted and redrafted in section 9795.1.6. Section 9795.1.5 will also be added to define certified and provisionally certified interpreters for hearings depositions, or arbitrations. DWC will require the interpreter for medical appointments and medical legal exams to have evidence that s/he passed the exam. Although section 9795.5 will list the interpreters who send in evidence of passing the exam, because there may be a lag time in posting the names, being on the will not be a requirement.</p>	<p>See revised section 9795.1.6 quoted above. Section 9795.1.5 regarding interpreters for hearings depositions, or arbitrations will also be revised to clarify certified and provisionally certified interpreters.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>that, except for medical treatment appointments, a qualified interpreter is a certified interpreter.</p> <p>(f) “Qualified interpreter for purposes of medical treatment appointments” means an interpreter who has a documented and demonstrated proficiency in both English and the other language; a fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and education and training in interpreting ethics, conduct and confidentiality, which <u>may</u> includes the standards promulgated by the California Healthcare Interpreting Association or the National Council on Interpreting in Healthcare <u>and who appears on the Administrative Director’s list of qualified interpreters for medical treatment appointments.</u> Evidence of these criteria shall be established by a certificate of completion of a Medical or Healthcare Interpreter Certification Program <u>that meets these standards</u> issued by a California educational or vocational institution.</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			interpreters must submit evidence with a billing as their names will be posted on the AD website.	
9795.1(f)	<p>Commenter appreciates the revisions to the proposed interpreter regulations, especially the adoption of the standards provided for in this section.</p> <p>Commenter states that there is a problem with contracted interpreters working through out of state companies provided by the insurance carriers. Commenter opines that these interpreters are usually non-certified and unfamiliar with California law. Commenter states a common problem is that two interpreters will show up for the same appointment, one contracted by the insurance company and the other contracted by the applicant's attorney. Commenter states that in certain cases the experienced certified interpreter will be dismissed in order to use the non-certified interpreter contracted by the insurer.</p>	<p>Iris Van Hemert State Certified Interpreter March 19, 2013 Oral Comment</p> <p>Robert Duran CWCIA March 19, 2013 Oral Comment</p> <p>Renee Ennabe Certified Medical Interpreter March 19, 2013 Oral Comment</p> <p>Andres Marquez Certified Interpreter March 19, 2013 Oral Comment</p> <p>Marina Herrera State Certified Interpreter – Administrative and Medical</p>	<p>Agree to delete (f) and add new sections 9795.1.5 and 9795.1.6. Also, will add (f) to section 9795.3 regarding which party is responsible for arranging for an interpreter.</p>	<p>Section 9795.1(f) will be deleted. New sections 9795.1.5 and 9795.1.6 will be added to clarify certification process. Section 9795.3 (f) will be added to state which party is responsible for arranging for an interpreter.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
		<p>March 19, 2013 Oral Comment</p> <p>Victor Fridman Certified Interpreter March 19, 2013 Oral Comment</p>		
9795.1(h)	<p>Commenter states this section contains ambiguous language: Language Services Providers (LSP) should also be listed under section (h). Commenter opines that this section should address who is to establish market rate the “Claims Administrators” or LSP. If “Claims Administrators” will be establishing market rate one must be certain they are comparing similar assignments (e.g. certified interpreter invoices with other certified interpreter invoices on similar matters. Recently “Claims Administrators” have been establishing market rate based on non-certified interpreter invoices vs. certified interpreter invoices).</p> <p>Commenter opines that an important item that needs to be addressed is the hiring of an interpreter through Language Services Providers. When LSP provide services for defense</p>	<p>Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment</p> <p>Jeffrey Katz March 19, 2013 Oral Comment</p> <p>Marina Herrera State Certified Interpreter – Administrative and Medical March 19, 2013 Oral 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	workers' compensation matters the LSP must compensate the interpreter their half day/full day fee as well as cover their own overhead costs (e.g. employee wages, taxes, insurance fees, office rent, equipment, software, etc.). Commenter states that these overages should be taken in account when establishing fees for interpreting services.			
9795.1(h)	Commenter is strongly opposed to the inclusion of market rate for payment of interpreters, or any other entity. Commenter opines that the presence of a market rate option provides an easy out from the fee schedule itself and has proven to be the source of most of the disputes for interpreter bills. Commenter strongly recommends that it be deleted from the regulation.	Seven Suchil, Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA) March 19, 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
9795.1(h)	Commenter strongly recommends deleting the market rate from the schedule. Commenter opines that the market rate is the most abused feature of the current schedule. It is easily and frequently manipulated to increase payments, and is the main source of payment disputes over interpreter fees. The current fee schedule generates	Benda Ramirez Claims and Medical Director CWCI March 19, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	disputes; a simpler, fairer fee schedule will minimize them. Commenter recommends basing the schedule on the straightforward and easily administered Federal Fee Schedule adopted by the United States District Courts.			
9795.1; 9795.3(d)	<p>Commenter request that the Division add “Interpreter Agency” to the definitions. Commenter suggests the following language:</p> <p>“An Interpreter Agency is a business or organization established to provide neutral and confidential interpreting and translation services; and involves coordinating transactions between two or more parties as the infrastructure to ensure the injured worker’s right to an interpreter in medical and administrative settings pursuant to section 9795.2 and Labor Code 4600(g) & 5811.”</p> <p>Commenter states that the current regulatory language per Section 9795.3(d) allows for the role of “agency for interpreting service”; however, entire Section 9795.3 is inconsistent with intent of reimbursable party due to lack of full</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p>	<p>Reject. 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	definition or identification throughout the entire Title VIII, Article 5.7.			
9795.3	<p>Commenter opines that the term “interpreter agency” needs to be added as a reimbursable party wherever there is mention of reimbursement of interpreter services, as stated in the following sub-section of 9795.3(b), (c) & (d), and should read as follows:” [proposed language is double-underlined]</p> <p>(b) The following fees for interpreter <u>or interpreter agency</u> services provided by a qualified or certified interpreter shall be presumed to be reasonable:</p> <p>(1) For an appeal board hearing, arbitration, or deposition, or formal rehabilitation conference: interpreter <u>or interpreting agency</u> 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 <u>or interpreter agency</u> shall establish the market rate for the interpreter's</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p>	<p>Reject. 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>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 <u>or interpreter agency</u> 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 <u>or interpreter agency</u> 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>(3) The fee in paragraph (1) or (2) shall include, when requested and adequately documented by the interpreter <u>or interpreter agency</u>, payment for mileage and travel time where reasonable and</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>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.</p> <p>(c) Unless notified of a cancellation at least 24 hours prior to the time the service is to be provided, the interpreter <u>or interpreter agency</u> shall be paid no less than the minimum fee.</p> <p>(d) Nothing in this section shall preclude payment to an interpreter or <u>interpreter agency</u> agency for interpreting services based on an agreement made in advance of services between the interpreter or <u>interpreter</u> agency and the claims administrator, regardless of whether or not such payment is less than, or exceeds, the fees set forth in this section.</p>			
9795.3	Commenter concurs with comments	Seven Suchil,	This comment goes beyond the	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>submitted by the California Workers' Compensation Institute and their recommendation that the Interpreters' Fee Schedule be based on the United States District Court schedule. Commenter opines that this will provide clarity and simplicity in that there would be a statewide standard rate, and certified interpreters would receive a higher rate of payment for their services than the other categories of service providers.</p> <p>Commenter also recommends that Certified and Qualified interpreters submit evidence of their names being present on the respective lists, as provided in Sec. 9795.5 for the date of service with each billing.</p> <p>Commenter recommends a ban on duplicate billing. An interpreter may not bill or receive payment for any service rendered during an interval already billed for another claimant.</p>	<p>Assistant Vice President, State Affairs, Western Region American Insurance Association (AIA) March 19, 2013 Written Comment</p>	<p>scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	
9795.3	<p>Commenter suggests the following revision:</p> <p>§ 9795.3. Fees for Interpreter Services <u>other than at medical treatment appointments</u></p>	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment</p>	<p>Reject. For now, this section applies to all services. To the extent this comment is suggesting fee schedule revision, this comment goes beyond the scope of these</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	
9795.3	<p>Commenter states that sections 9795.3(a)(2) and 9795.3(a)(3) provide that the claims administrator is required to pay for the services of a “provisionally certified” interpreter at a medical treatment appointment or medical-legal evaluation.</p> <p>According to Labor Code §4600(g) and §4620(d), the employer is not required to pay for the services of an interpreter who is “provisionally certified” unless he/she consents in advance to the selection of the interpreter or the injured employee requires interpreting service in a language other than the languages designated pursuant to Section 11435.40 of the Government Code.</p> <p>Commenter suggests the following revisions:</p> <p>(a) Fees for services performed by a certified, provisionally certified, or qualified interpreter, where the employee does not proficiently speak</p>	<p>Peggy Thill Operations Manager Claims Regulator Division State Compensation Insurance Fund March 19, 2013 Written Comment</p>	<p>Agree to add Labor Code requirement.</p>	<p>Will add § 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 ...; 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</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>or understand the English language, shall be paid the by claims administrator for any of the following events:</p> <p>(2) <u>Medical treatment appointments, except where the employer has not consented in advance to the use of a provisionally certified interpreter selected by the person conducting the medical treatment or exam unless the injured employee requires services in a language other than a language designated pursuant to Government Code §11435.40.</u></p> <p>(3) <u>A comprehensive medical-legal evaluation as defined in subdivision (c) of Section 9793, ... unless the medical report to which the services apply is compensable in accordance with Article 5.6. An employer shall not be required to pay for the services of an interpreter who is provisionally certified unless either the employer consents in advance to the selection of the individual who provides the interpreting service or the injured worker requires interpreting service in a language other than the languages designated pursuant to Government</u></p>			<p>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. § 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 (1) certified ...; or (2) certified for</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>Code §11435.40.</u> 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.</p>			<p>medical treatment appointments or medical legal exams, ...; 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 provisionally may use another interpreter if that fact is noted in the record</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.3(a)	Commenter wants to know why this section addresses “qualified” interpreters instead of “certified interpreters.”	Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment	Agree.	of the medical evaluation. Section 9795.3 will be revised to state: (a) Fees for services performed by a certified, or provisionally certified, or qualified interpreter, <u>upon request of an where employee who</u> does not proficiently speak or understand the English language, shall be paid by the claims administrator for any of the following events:
9795.3(a)	Commenter suggests the following revision: (a) <u>Upon request of an injured employee who does not proficiently speak or understand the English language, fees</u> Fees for services performed <u>at a medical treatment appointment</u> by a <u>qualified and certified, or provisionally certified, or interpreter</u> qualified interpreter, where the employee does not proficiently	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	Agree to “upon request of an injured employee” language. Reject limiting section to medical treatment appointments.	See revised language above.

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>speaking or understanding the English language, shall be paid by the claims administrator, for any of the following events:</p>			
9795.3(a)(1) – (7)	<p>Commenter suggests that these sections be deleted.</p> <p>Commenter opines that clarification is needed that “an examination to which an injured employee submits at the request of the claims administrator” is an examination pursuant to Labor Code section 4050. Labor Code section 4050 states in pertinent part:</p> <p>“Whenever the right to compensation under this division exists in favor of an employee, he shall, upon the written request of his employer, submit at reasonable intervals to examination by a practicing physician, provided and paid for by the employer...”</p>	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment</p>	<p>For now, this section applies to all services. To the extent this comment is suggesting fee schedule revision, 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(a)(2) and 9795.3(a)(3)	<p>Commenter states that this needs clarity: Why has the term “Medical treatment appointments” been added to section (2) this indicates that PQMEs, IMEs, AMEs, and Re-Evaluations are no longer addressed within this section? Lien claimants typically perform medical treatment</p>	<p>Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment</p>	<p>Reject. Labor Code section 5811 added requirement for interpreters at medical treatment appointment. Medical legal exams are still addressed under (a)(1) and (3).</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>appointments. Defense firms such as the commenters do not perform such assignments. Commenter asks if it safe to assume that this new code does not pertain to defense work? Commenter recommends that this be clearly outlined within the frameworks.</p>			
9795.3(a)(3)	<p>Commenter states that she oftentimes has trouble getting reimbursed for performing interpreter services at an AME when no injury or industrial injury is established.</p>	<p>Iris Van Hemert State Certified Interpreter March 19, 2013 Oral Comment</p>	<p>This comment goes beyond the scope of these regulations.</p>	<p>None</p>
9795.3(a)(7); 9793.3(b)(1)	<p>Commenter states that these sections provide that for appeals board hearings, arbitrations, or depositions, interpreter fees shall be billed and paid 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 is provided, or at the “market rate,” whichever is greater. Section 9795.3(a)(7)(b)(2) provides that for all other events, “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.”</p>	<p>Peggy Thill Operations Manager Claims Regulator Division State Compensation Insurance Fund March 19, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	<p>Both subsections provide that interpreters shall establish the market rate for their 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>Commenter opines that allowing interpreters to establish individual “market rates” for their services has been disruptive to the workers’ compensation system for many years. Because the process of reviewing documentation to support an interpreter’s market rate is time-consuming and does not allow claims administrators to program uniform rates into automated bill payment systems, paying these bills timely has been an on-going challenge. The shift to e-billing (and the tighter timeframes associated with it) will make it increasingly difficult to issue payments timely and will result in increased penalties. In addition, the absence of an interpreter fee schedule leads to billing disputes and subsequent litigation. A well-defined fee schedule for interpreter services will promote consistency and help</p>			
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INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>expedite the bill payment process while reducing litigation and claims costs.</p> <p>Commenter states issues related to the “market rate,” requiring claims administrators to pay a two hour minimum for interpreting services provided at medical treatment appointments does not appear to be reasonable. The 2-hour minimum may encourage the use of interpreters when their services are not necessary, specifically, at treatment appointments provided on a frequent basis (e.g. physical therapy, occupational therapy, or chiropractic treatment). Interpreters should only be reimbursed for the actual time they spend interpreting, and only those services that are <i>reasonable and necessary</i> should be reimbursable.</p> <p>Commenter strongly recommends that the Administrative Director adopt clearly defined fee schedules for <u>all</u> interpreting services. Commenter opines that the proposed regulations should eliminate <u>all</u> references to a “market rate” as well as reference to the 2-hour minimum for interpreting</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	services provided at medical treatment appointments. In addition, the fee schedule should include clear guidelines addressing the appropriateness and frequency of interpreter services at medical treatment appointments.			
9795.3(b)	<p>Commenter suggests the following revisions:</p> <p>(b) The following is the maximum reasonable hourly fees for interpreter services provided by a qualified or and certified interpreter shall be presumed to be reasonable:</p> <p style="padding-left: 40px;">Hourly INMC4 \$55 per hour or part thereof</p> <p>(b) The following is the maximum reasonable hourly fees for interpreter services provided by a-qualified or and provisionally certified interpreter shall be presumed to be reasonable:</p> <p style="padding-left: 40px;">Hourly INMP4 \$32 per hour or part</p>	Benda Ramirez Claims and Medical Director CWCI March 19, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>thereof</p> <p>Billing codes for interpreter services are necessary to bill, explain reviews, request 2nd reviews and IBRs, report to WCIS, and for tracking and analysis.</p>			
9795.3(b)(1)	<p>Commenter requests that Rule 9795.3 (b)(1) be amended to reflect the reality that many and probably most interpreters who appear at Board proceedings are not there just for one case: that they typically handle several cases at a time, and the requirement that they be paid the greater of either half or full day or the market rate allows for double, triple or greater recovery for actual time spent.</p> <p>As an example, commenter states that interpreters at the San Jose Board who charge a flat \$500, at \$125 an hour, for a half day—are actually billing many times that for their time at the Board. Many interpreters essentially “camp out” at the Board every day, taking cases as they appear—and shuttling back and forth between one hearing room and another.</p>	<p>Jerry R. Wells, Esq. Mullen & Filippi February 4, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter opines that interpreters' liens are major problems for defendants, and that this proposed regulation is only going to make it worse.</p>			
9795.3(b)(1)	<p>Commenter states that this needs clarity: The following fees for interpreter services provided by a certified interpreter shall be presumed to be reasonable. Under section (a) Fees for services performed by a qualified interpreter. Is the term "qualified" and "certified" being used throughout this section as synonyms for the other?</p> <p>Commenter states that following needs clarity: In section (1) For an appeal board hearing, arbitration, <u>or</u> deposition, or formal rehabilitation conference; 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.</p> <p>Commenter states that it is a fact that</p>	<p>Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment March 19, 2013 Oral Comment</p>	<p>Agree that (a) needs to be clarified. The remainder of the comments concern fee schedule issues which go beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.</p>	<p>Subdivision (a) will be revised to state: Fees for services performed by a certified, or provisionally certified, or qualified interpreter, upon request of an where the employee who does not proficiently speak or understand the English language, shall be paid by the claims administrator for any of the following events:</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the Superior Court fee schedule for interpreters are not based off 3.5 hours and 8 hours. Commenter questions how he can base his fee schedule off the court schedule when their half day is from 8:00am-12:15pm and their full day is from 8:00am-5:15pm? Also depositions tend to start at 10:00am not 8:00am. Commenter opines that it is very difficult to compare an interpreter that does a deposition to an interpreter that is at court. Interpreters that are scheduled to appear at depositions are reserved for only one (1) assignment/for one half day. Interpreters at court or at the board have the flexibility to do multiple assignments within a three and a half hour (3.5 hours) period. Commenter sees the need to make proper comparisons and maintain accurate fee schedules for each individual assignment type, not group them all into one category.</p> <p>Commenter requests that the Division come up with a fee schedule for lien claimants and each order type vs. a fee schedule for legal interpreting matters (defense work) and each order type and each individual language within</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	each region within the State of California.			
9795.3(b)(1) – (2)	Commenter suggests that these sections be deleted.	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	This comment addresses fee schedule issues and goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	None
9795.3(b)(1); 9795.3(b)(2); 9795.1(h)	<p>Commenter states that the purpose of a fee schedule is to provide a clear, fair, and predictable payment structure that provides for the timely processing of payments and limits the potential for dispute. Commenter opines that the proposed regulations perpetuate the portions of the interpreter fee schedule that limits predictability and causes disputes.</p> <p>Commenter opines that these sections maintain the current ability to force payment above the Superior Court Fee Schedule by allowing interpreters to establish, through nothing more than the selective presentation of payment records, a “market rate”.</p> <p>Commenter opines that a “market rate” exception, if established</p>	<p>Jason Schmelzer Legislative Advocate California Coalition on Workers’ Compensation</p> <p>Jeremy Merz California Chamber of Commerce March 18, 2013 Written Comment</p>	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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>properly, would identify the usual or typical rate charged in a given market. However, the definition of “market rate” contained in §9795.1(h) does not do anything other than establish a mechanism by which interpreters can game the system and inappropriately inflate their billings. The current definition simply requires an interpreter to demonstrate that, at some point, he or she managed to get paid more than they should have been. They then use that as evidence to demonstrate why other claims payers should follow suit. This does not establish a market rate in any sense.</p> <p>Commenter strongly recommends that the market rate loophole be closed and that reimbursement for interpreter services be based on the Federal Fee Schedule adopted by the United States District Courts.</p>			
9795.3(b)(2)	<p>Commenter opines that the proposed rate of \$11.25 per quarter hour (\$45.00 per hour) is not competitive with the court system that is using the same resources. Because the Division now requires a certificate from a California institute, commenter states</p>	<p>Melinda Hayes President & CEO MHayes March 7, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>that they are often required to use the same certified interpreters at the medical appointment that are qualified to do court and other interpretation. Commenter states that Court certified interpreters expect a half day, three hour minimum at the court rate. The most recent advisory that commenter could locate is the Judicial Council of California's Payment Policies for Contract Court Interpreters adopted on February 1, 2000, which includes the following rates:</p> <p>Certified & Registered Interpreters (as of September 1, 2007) as adopted by the Judicial Council:</p> <p>Region 1: \$282.23 per full-day or \$156.56 per half day</p> <p>Region 2: \$282.23 per full-day or 156.56 per half day</p> <p>Commenter opines that even these rates are very low in a market where Spanish interpreters are charging them \$55.00 to \$65.00 per hour and other language interpreters between \$70.00 and \$110 per hour. Commenter states that at a minimum, the DWC certified</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	interpreters should be allowed to charge the court rate.			
9795.3(b)(2)	Commenter states that this section needs clarity. Subdivision (a) does not outline “all other events.” Commenter questions if this breakdown only pertains to medical evaluations such as IMEs, AMEs, QMEs, Re-evaluations, etc.	Luis Echeverry President and CEO Continental Interpreting Services March 16, 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(b)(2)	<p>Commenter objects to the 2 hour minimum for the following reasons:</p> <ol style="list-style-type: none"> 1. The two hour minimum for interpretation at a medical appointment would result in the interpreter being paid substantially more than the medical professional actually attending to the needs of the injured worker. 2. Interpreters often attend multiple medical appointments for multiple injured workers in the same day and at the same medical office. There is no formula for pro-rating the cost of services when behavior like this occurs. Under these rules an interpreter could be paid multiple times by different claims administrators for the exact same time. 	<p>Jason Schmelzer Legislative Advocate California Coalition on Workers’ Compensation</p> <p>Jeremy Merz California Chamber of Commerce March 18, 2013 Written Comment</p>	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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>3. The inclusion of a two hour minimum is presumably intended to reimburse an interpreter for the cost of appearing when the appointment is not sufficiently long to justify the effort on the part of an interpreter. However, the rules allow for the payment of documented mileage and travel time to and from the appointment. The cost incurred by the interpreter for simply appearing at the appointment, if appropriately documented, is already reimbursed by the employer.</p> <p>Commenter requests that the division recommends that the Division draft regulations to prevent double-billings by interpreters. Specifically, interpreters should be required, through documentation mandated in regulations, to disclosed situations where they are appearing for multiple appearances so that their cost can be apportioned among the various cases.</p>			
9795.3(b)(3)	<p>Commenter suggests the following revision:</p> <p>(3) The fee in paragraph (1) or (2) shall include, when requested and</p>	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 2013</p>	<p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent</p>	<p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	adequately documented by the interpreter, payment for mileage and travel time where the travel has been preauthorized, is 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.	Written Comment	rulemaking.	
9795.3(c)	Commenter suggests the following revision: (c) Unless notified of a cancellation at least 24 hours prior to the time the service is to be provided, not counting weekends or federal holidays, the interpreter shall be paid no less than the minimum fee.	Benda Ramirez Claims and Medical Director CWCI March 19, 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(f) and (g)	Commenter suggests the addition of the following: f) An interpreter may not bill or be paid for any services rendered during an interval already billed for services to another person or entity. The	Benda Ramirez Claims and Medical Director CWCI March 19, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>interpreter shall prorate the billing to avoid overlap.</u></p> <p>(g) Interpreter billings shall include following statement: “I have not violated Labor Code Section 139.32 and the content of this bill is true and correct to the best of my knowledge. This statement is made under penalty of perjury and is dated this _____ of _____ at _____ County, California” signed by the interpreter or the authorized representative of the interpreting service.</p> <p>Commenter opines that separating the interpreting fee schedule for medical treatment appointments from the one for other events in two separate sections, 9795.3 and 9795.4, will harmonize the new provisions in Senate Bill 863, clarify the scheduled fees and make the schedules easier to understand and to use.</p> <p>Commenter opines that the recommended changes to sections 9795.3 and 9795.4 provide a simpler interpreter fee schedule based on the current United States District Court</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>fee schedule for interpreters instead of on current superior court fees. This schedule provides the same allowances state-wide without the need to discover and administer the constantly changing and difficult to find superior court rates that differ from court to court. More information on this federal court interpreter fee schedule can be found on the United States District Court web site at:</p> <p><u>www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts/CourtInterpreters.aspx</u></p> <p>Commenter opines these schedules will eliminate confusion and disputes over the rates to pay interpreters. If adopted, the most significant improvement will be the elimination of the “market rate” that is easily manipulated and that constantly and artificially drives up costs, wastes resources and fuels so many disputes.</p> <p>Commenter states that the federal fee schedule prohibits interpreters from billing for a time interval more than once, a practice that is all too commonly seen in workers’ compensation in California.</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter recommends adopting schedules based on the federal interpreter fee schedule, including this sensible principle.</p> <p>SB 863 added Labor Code section 139.2 to prohibit referrals or cross-referrals between entities with financial interests in one another, including providers of interpreting services. Commenter opines that adding the proposed statement will enforce this new requirement.</p>			
9795.5(a)	<p>Commenter suggests the following revision:</p> <p>a. Interpreters certified in accordance with section 9795.1 (a) and who are qualified to interpret at workers' compensation appeals board hearings are listed at the following websites: http://jobs.spb.ca.gov/InterpreterListing/ and http://www.courts.ca.gov/programs-interpreters.htm.</p>	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	Agree	This section will be revised as suggested.
9795.5(b)	<p>Commenter recommends that the Administrative Director review and revise the list more frequently than once per year as an annual update will</p>	Seven Suchil, Assistant Vice President, State Affairs, Western	Agree	The section will be revised to state "no less than annually."

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	prevent new interpreters from joining the list for a protracted period.	Region American Insurance Association (AIA) March 19, 2013 Written Comment		
9795.5(b)	<p>Commenter suggests the following revision:</p> <p>b. The Administrative Director shall maintain a list of qualified interpreters for the purposes of medical treatment appointments. An interpreter who meets the qualifications of section 9795.1 (b) must apply to the Administrative Director to be included on the list through the year and must present evidence of the required documentation. The list shall be reviewed and revised on a yearly monthly basis, and shall be made available on the website www.dir.ca.gov or upon request.</p> <p>Commenter opines that it is necessary to review and revise the Administrative Director's list monthly. Yearly revisions of the list are not frequent enough as this would result in new applicants waiting up to a year to be added to the list.</p>	Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment	Agree in part.	The section will be revised to state "no less than annually."

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9795.5(b)	<p>Commenter questions what the procedure will be for the division to maintain the list of qualified interpreters after the period of one year. Is there an expectation that the qualified interpreter become certified within that year? Is there a fee that will be paid to remain on the list? Commenter states that there is an annual recertification fee for certified interpreters.</p> <p>Commenter wonders how medical staff will be able to distinguish a certified from a non-certified interpreter.</p>	<p>Iris Van Hemert State Certified Interpreter March 19, 2013 Oral Comment</p> <p>Andres Marquez Certified Interpreter March 19, 2013 Oral Comment</p>	<p>Agree to revise sections 9795.5(b) and 9795.1.6 to clarify procedure to be certified and to be listed.</p>	<p>Section 9795.5 (b) will state: <u>The Administrative Director shall maintain a list of qualified certified interpreters for the purposes of medical treatment appointments <i>and medical legal exams.</i> An interpreter who meets the qualifications of section <u>9795.1.6(a)(2)-(b)</u> must apply to the Administrative Director to be included on the list through the year and must present <i>a copy of the Certification Commission for Healthcare Interpreters credential indicating</i></u></p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
				<p><u>that the interpreter passed the exam and specifying the language evidence of the required documentation.</u> The list shall be reviewed and revised <u>no less than annually</u>, and shall be made available on the website www.dir.ca.gov or upon request.</p>
Authorities	<p>Commenter states that Section 68562 should be replace by Section 68566 of the Government Code in all of authorities cited.</p>	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 2013 Written Comment</p>	<p>Disagree. Government Code sections 11435.30 and .35 cite section 68562. Also, section 68562 describes the certification program.</p>	None
General Comment	<p>Commenter states that his company has been negatively impacted due to practices that many lien claimants have taken in order to obtain payment on their lien work. Commenter's corporation solely works on behalf of the defense. Many of his invoices have</p>	<p>Luis Echeverry President and CEO Continental Interpreting Services March 16, 2013 Written Comment</p>	<p>This comment goes beyond the scope of these regulations</p>	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>been wrongfully denied due to claims administrators confusing his company with lien/applicant work. Commenter states that there is a large difference between his company vs. those that accept and work on behalf of the applicant. Commenter opines that the code needs to clearly reflect the difference and/or needs to provide legal interpreting companies with a different code than the one that is currently being offered and tailored towards lien claimants.</p>			
General Comment	<p>Commenter questions how the Division can insure adoption of the same standards for interpreters in connection with Medical Examinations, being that a standard has already been established in California by statute and regulation by the Department of Managed Health Care? <i>(Please see Health & Safety Code Section 1367.04 & Section 28 CCR1300.67.04)</i></p> <p>Commenter opines that if DWC establishes an alternative standard for access to interpreters, it may be establishing a standard that is</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p>	<p>Disagree. Labor Code section 4600 provides that the rules adopted by the Administrative Director be “substantially similar” to the requirements set forth in section 1374.04 of the Health and Safety Code. That section requires the Department of Managed Health Care (DMHC) to develop regulations to ensure that group health providers advise their limited-English proficient enrollees of the availability of interpreter services; to ensure access to interpretation services;</p>	<p>Section 9795.1.6 will be revised to require passing the Certification Commission for Healthcare Interpreters exam, which includes meeting the substantially same standards.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>inconsistent with the standard for the delivery of healthcare in California and the U.S. To establish an alternative standard is to suggest that injured workers are not entitled to the same standard of healthcare afforded to Medicare/Medi-Cal beneficiaries or beneficiaries of any of the State's Health Plans.</p>		<p>standards to ensure quality and timeliness of oral interpretation services, with consideration given to standards established by California or nationally recognized accrediting or professional organizations. Those regulations also define a “qualified interpreter” as an interpreter that meets the plan’s proficiency standards established pursuant to subsection (c)(2)(H). While each plan is given some latitude in developing its criteria to ensure the proficiency of interpretation services, the standards must require three components:</p> <ul style="list-style-type: none"> • A documented and demonstrated proficiency in both English and the other language; • A fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; • Education and training in interpreting ethics, conduct and confidentiality, which may 	

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			include the standards promulgated by the California Healthcare Interpreters Association (CHIA) or the National Council on Interpreting in Healthcare.	
General Comment	There is a concern among these commenters that experienced “non-certified-interpreters” will not be able to obtain work while taking the time, making the effort and shouldering the expense of studying in order to test and become certified. Commenters state that there are not currently enough certified interpreters working in the state of California. Commenters request that the regulations be adjusted in order to allow interpreters in this situation to continue working.	<p>Alma Mena Medical Interpreter March 18, 2013 Written Comment</p> <p>Ariana Sevilla March 18, 2013 Written Comment</p> <p>Chris Martinez March 18, 2013 Written Comment</p> <p>Jeffrey Katz, Chiropractor, QME and Owner of Medical Interpreting Company March 19, 2013 Oral Comment</p>	Disagree. Interpreters will be able to continue working as medical interpreters long as the claims administrator provides prior written consent.	None
General Comment	Commenters state that they have been working as certified medical interpreters for long periods of time. Commenters worked and studied hard in order to prepare for and pass the	Annie Graham California Medical Certified Interpreter March 19, 2013 Written Comment	Agree to delete 9795.1(f), the definition of “qualified interpreter for purposes of medical treatment appointments” and to add	Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>exam. Commenters opine that they do not want to see these standards lowered and that it would be a mistake and a disservice to the injured worker to do so. Commenters believe that the standards for the national exam are not high enough. Commenters would like to see the state exam reinstated. Commenters request that the division take this into account making decisions regarding the requirements for Interpreting in California.</p>	<p>Felipe Ayala Certified Medical Interpreter March 19, 2013 Written Comment</p> <p>Fernando Rodriguez March 18, 2013</p> <p>Francisco Cabral State Certified Interpreter March 18, 2013 Written Comment</p> <p>Gabriela Ortiz California Certified Medical Interpreter March 19, 2013 Written Comment</p> <p>Laura Estrada Certified Interpreter March 19, 2013 Written Comment</p> <p>Leslie Rivera Melton State Certified Language Interpreter March 19, 2013</p>	<p>section 9795.1.6 to clarify how to be certified or professionally certified.</p> <p>Disagree regarding concern that only the state test (that is no longer offered) is appropriate.</p>	<p>medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI). CCHI is a 501(c)(6) organization whose mission is to develop and direct a comprehensive credentialing program for healthcare interpreters, brings together representatives from national and regional non-profit interpreting associations, language companies, community-based organizations, educational institutions, healthcare providers, and advocates for LEP individuals.</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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		<p>Written Comment</p> <p>Lupe Manriquez Certified Medical Interpreter March 19, 2013 Oral Comment</p> <p>Rosario Rivas State Certified Language Interpreter March 19, 2013 Written Comment</p> <p>Renee Ennabe Certified Medical Interpreter March 19, 2013 Oral Comment</p> <p>Stefanie Beltran Certified Medical Interpreter March 19, 2013 Written Comment</p> <p>Victor Fridman Certified Interpreter March 19, 2013 Written Comment</p>		
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INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment	<p>Commenter requests that the Division act on the following:</p> <ul style="list-style-type: none"> • Adopt a fee schedule based on the federal interpreter fee schedule. • Adopt codes under which interpreter services can be billed, paid and reported. 	<p>Benda Ramirez Claims and Medical Director CWCI March 19, 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>
General Comment	<p>Commenters recommend that the Division include certification by the National Board and/or Certification Commission for Healthcare Interpreters as an acceptable certification in the next revision of the proposed regulations.</p> <p>Some commenters also provide information on the recommended education standard which is available in the complete correspondence upon request.</p>	<p>Carlos Garcia Certified Medical Interpreter – Spanish CA Chapter Chair International Medical Interpreters Association and Executive Director National Board of Certification for Medical Interpreters March 19, 2013 Written and Oral Comment</p> <p>Ximena D. Pacull National Board Certified Medical Interpreter March 19, 2013</p>	<p>Agree to allow certification for medical interpreters by passing exam offered by CCHI.</p>	<p>Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
		<p>Written Comment</p> <p>Holly Mikkelson State and Federally Certified Court Interpreter March 19, 2013 Oral Comment</p> <p>Illena de la Torre Medical Interpreter March 19, 2013 Oral Comment</p>		
General Comment	<p>Commenter opines that the issue of certification for medical treatment services is one that ought to be uniformly addressed by either accrediting some of the institutions already testing for this field of interpreting, or developing a testing program such as the one that CPS had 5 years ago.</p> <p>Commenter opines that the Labor Code had addressed the issue of fees fairly years ago, by allowing Market Rate to be used in establishing fees for</p>	<p>Beatriz E. Ugarte State Certified Spanish Interpreter CFI, NAJIT, CHIA, CWCIA March 19, 2013 Written Comment</p>	<p>Agree.</p> <p>This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be</p>	<p>Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).</p> <p>None</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>interpreters at the various settings where interpreters are needed in the Workers' Compensation System. Commenter states that because price setting is considered illegal, the Market Rate allows for the following: Seniority of the interpreter, qualifications, experience, geographic location, subject matter to be interpreted, (Trial, Med/Legal, Deposition, conference, mediations, medical treatment, exotic languages, and others).</p> <p>Commenter is against the proposal to use the Superior Court fee structure as it is not quite the same. Most interpreters are independent contractors, have small businesses, do not have 40 hours of guaranteed work, are not employees with benefits and have to travel to different job locations where the interpreting is going to be done. Not to mention, parking, office maintenance, sick and vacation time, etc.</p>		<p>addressed in a subsequent rulemaking.</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
General Comment – Enforcement	Commenter states that these proposed changes are of little use if there is nothing in place to enforce these requirements.	Maria Palacio Administrative Hearing Interpreter March 19, 2013 Oral Comment	This comment goes beyond the scope of these regulations.	None

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment – Exam Standard	Commenter would like to know if the National Exam is comparable to the old State Exam that was the standard. Commenter would like to ensure that the National Standard is on par before it is considered as an acceptable certification.	Andres Marquez Certified Interpreter March 19, 2013 Oral Comment	Although the proposed regulations did not provide for certification by a national exam, the revised version will propose that passing the CCHI exam will constitute being certified for medical treatment appointments of medical legal exams. CCHI is a 501(c)(6) organization whose mission is to develop and direct a comprehensive credentialing program for healthcare interpreters, brings together representatives from national and regional non-profit interpreting associations, language companies, community-based organizations, educational institutions, healthcare providers, and advocates for LEP individuals.	Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).
General Comment – fee schedule	Commenter opines that the fee schedule is vague. As an example he point out that there is currently no distinction between Spanish and Tagalog. Within the State of California there are only five (5) Tagalog interpreters that appear on the Administrative/Medical master list.	Luis Echeverry President and CEO Continental Interpreting Services March 16, 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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Three (3) out of the five (5) interpreters reside in Northern California while only two (2) reside in Southern California. All five of them are administratively certified, while none of them are medically certified. For all medical appointments commenter is forced to use administrative interpreters while being compensated \$90.00 for a 2-hour medical appointment. Commenter states that these Southern California administrative interpreters are currently billing \$350.00 (0-3 hours not 3.5 hours) for the half day and \$500.00 (3-6 hours not 3.5-8 hours) for the full day. Commenter has difficulty providing properly certified interpreters for medicals and/or depositions only to be compensated \$156.56 for depositions and \$90.00 for legal medical examinations. For interpreters that provide services in Northern California the fee schedule is significantly different. The interpreter normally bill \$150.00 per hour. They bill by the hour, not in half day or full day increments. They have a three (3) hour minimum fee for the half day and a six (6) hour minimum fee for the full day.</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment – Fee Schedule	Commenter would like to see a decent fee schedule that reflects the market rate for interpreters.	<p>Debora Marcheesky Federal & Medical Interpreter March 19, 2013 Oral Comment</p> <p>Marina Herrera State Certified Interpreter – Administrative and Medical March 19, 2013 Oral Comment</p>	This comment goes beyond the scope of these regulations. The interpreter fee schedule and related rules will be addressed in a subsequent rulemaking.	None
General Comment - Subcontracting	Commenter states that there is a problem in their industry of qualified interpreters subcontracting their work out to college students to perform. Commenter opines that this occurs mainly through out-of-state agencies.	Yolanda Duran State Certified Medical Interpreter March 19, 2013 Oral Comment	Agree that the standards need to clearer.	Section 9795.1.5 and 9795.1.6 will be added to clarify how to be certified or provisionally certified.
General Comment - Verification	<p>Commenter questions how this emergency and proposed regulatory definition will be regulated?</p> <p>a) Who will be responsible for the oversight of the qualifications and capacities of a qualified interpreter?</p> <p>b) Will the qualified interpreter be mandated to pay a fee to the state as criteria to be listed on the proposed</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p> <p>Joyce Altman Court Certified</p>	<p>See answers below:</p> <p>a) Disputes regarding certification would be resolved at WCAB</p> <p>b) The regulations do not propose a fee to be listed</p>	Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Interpreter Directories (Section 9795.5), similar to the protocol requiring State Certified Interpreters pay annual renewal fees?</p> <p>c) Will the qualified interpreter be mandated to comply, within a certain time frame, to take a medical interpreter test as a criteria to being listed on the qualified interpreter directory?</p> <p>d) If no such time frame to take a medical interpreter test exists, then does the qualified interpreter’s qualification automatically become null & void by an expiration date?</p> <p>e) Will the qualified interpreter be able to renew their qualifications and be relisted on the qualified interpreter directory after a year? If so, how many renewals will be allowed before it is deemed the “qualified interpreter” is no longer “qualified.”</p> <p>f) If no renewals are allowed, then EXPLAIN why and PROVIDE how a qualified interpreter can renew under circumstance. If a qualified interpreter can’t become a certified after a certain</p>	<p>Interpreter – CWCIA March 19, 2013 Oral Comment</p> <p>Victor Fridman Certified Interpreter March 19, 2013 Written Comment</p> <p>Marina Herrera State Certified Interpreter – Administrative and Medical March 19, 2013 Oral Comment</p>	<p>c) Yes</p> <p>d) N/A – the regulations will be changed to require interpreter to be certified</p> <p>e) N/A – the regulations will be changed to require interpreter to be certified</p> <p>f) N/A – the regulations will be changed to require interpreter to be certified</p>	

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	number of “tries” then this item is moot. Commenter opines that if qualified interpreters stay on a qualified list indefinitely, then there will be no incentive for them to eventually become certified.			
General Comment - Verification Form	<p>Commenter states that there is little ability for payers to verify that interpreter services were actually provided. Commenter opines that the billing and payment process would be more transparent and reliable if there were a verification form signed by the interpreter, physician, and injured worker. The form would need to be filed under the penalty of perjury and contain a declaration against 139.3 violations. It should include the interpreters starting location, the doctor’s address, information about travel time and mileage, and a place to note if the interpreter provided services to more than one injured worker.</p> <p>Commenter strongly recommends that the DWC create a Verification of Services Form that provides all of the information necessary for quick and easy processing of payment in accordance with the fee schedule.</p>	<p>Jason Schmelzer Legislative Advocate California Coalition on Workers’ Compensation</p> <p>Jeremy Merz California Chamber of Commerce March 18, 2013 Written Comment</p>	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 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment – Verification of Interpreter	<p>Commenter questions how the DIR/DWC will identify a “qualified” interpreter?</p> <p>a) Will the qualified interpreter be assigned a number or alpha-numeric sequence?</p> <p>b) Will the qualified interpreter be given a badge similar to the ones that certified interpreters possess?</p>	<p>Andrea Manriquez CWCIA Issues, Plans & Objectives Committee March 18, 2013 Written Comment March 19, 2013 Oral Comment</p> <p>Veronica Perez CWCIA March 19, 2013 Oral Comment</p> <p>Robert Duran CWCIA March 19, 2013 Oral Comment</p>	The regulations will be changed to require interpreters to be certified or provisionally certified. No number or badge will issue.	Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).
General Commenter – Party Responsible for Obtaining Interpreter	<p>Commenter states that many times when he has been hired to interpret, a second interpreter will also report for the same assignment.</p> <p>Commenter refers to California Labor Code section 5811(b)(1) which reads: “it should be the responsibility of any party producing a witness requiring an interpreter to arrange for the presence of a qualified interpreter.”</p> <p>Commenter states that similarly, the instruction page of DWC’s</p>	<p>Rod Olguin State Certified Interpreter March 19, 2013 Oral Comment</p> <p>Robert Duran CWCIA March 19, 2013 Oral Comment</p> <p>Andres Marquez Certified Interpreter</p>	Agree.	Section 9795.3 (f) will be added: “It is the responsibility of the party producing a witness requiring an interpreter to arrange for the presence of the interpreter.”

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Declaration of Readiness to Proceed, Item 4, states that: “The party requiring an interpreter must arrange for the presence of an interpreter, except that the defendants must arrange for the presence of the interpreter if the injured worker is not represented by an attorney.”</p> <p>Commenter requests that the division consider including this language in the proposed changes to these regulations in order to avoid the unnecessary cost to the Claims Administrator from having to pay for two interpreters.</p>	<p>March 19, 2013 Oral Comment</p>		
General Information	<p>Commenter submitted a document drafter by InterpretAmerica, at the request of CWCIA, regarding the profession of Medical Interpreter. The document is a draft entitled “Best Practices in the Interpreting Profession – The Professional Medical Interpreter,” dated March 2013. [Document is available upon request.]</p>	<p>Lorena Ortiz Schneider CWCIA March 19, 2013 Written Submission</p>	No response required.	None
General Question	<p>Commenter would like to know if a doctor can refuse to use an interpreter that is not qualified.</p>	<p>Robert Duran CWCIA March 19, 2013 Oral Comment</p>	The regulations will be changed to require interpreter to be certified or provisionally certified.	None
Health & Safety Code 1367.04	<p>Commenter states that this section is primarily referring to the written translation of documents and not the</p>	<p>Rod Olguin State Certified Interpreter</p>	Disagree. The cited code is in Labor Code section 4600(g) and requires the Department of	Section 9795.1.6 will be added to clarify how to be certified

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>oral translation provided by interpreters. Commenter requests that if the division is basing its requirements for a qualified interpreter on what is set forth in this section, that a reassessment be made.</p>	<p>March 19, 2013 Oral Comment</p>	<p>Managed Health Care (DMHC) to develop regulations to ensure that group health providers advise their limited-English proficient enrollees of the availability of interpreter services; to ensure access to interpretation services; standards to ensure quality and timeliness of oral interpretation services, with consideration given to standards established by California or nationally recognized accrediting or professional organizations. DWC is considering these requirements, including standards established by California or nationally recognized accrediting, certifying, or licensing organizations and medical and health care interpreter professional associations regarding interpretation services. The regulations will be changed to require interpreter to be certified or provisionally certified.</p>	<p>for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Labor Code section 5811(b)(2)	<p>Commenter states that there is a typographical error in the Notice of Rulemaking at the bottom of page 3, instead of interpreter the word “interrupter” is used. This touches off a nerve in the interpreter community.</p>	<p>Holly Mikkelson State and Federally Certified Court Interpreter March 19, 2013 Oral Comment</p>	<p>DWC apologizes for the typo.</p>	<p>None.</p>
Notice of Rulemaking	<p>Commenter references the statement on Page 6 of the Notice, under Consideration of Alternatives:</p> <p>“No reasonable alternative considered or that has otherwise been identified and brought to the Acting Administrative Director’s attention would be more effective in carrying out the purpose for which the actions are proposed.”</p> <p>Commenter states that the definition of a “qualified interpreter” already exists in nationally recognized standards. Commenter opines that the division’s characterization of interpreters is vague and omits the obvious description and that is the ability to interpret, message transfer accurately from one language to another.</p> <p>Commenter urges the use of the existing national standard, adopted by</p>	<p>Holly Mikkelson State and Federally Certified Court Interpreter March 19, 2013 Oral Comment</p>	<p>Agree in part. The regulations will be changed to require interpreters to be certified or provisionally certified.</p>	<p>Section 9795.1.6 will be added to clarify how to be certified for medical treatment appointments and medical legal exams to include passing the Certification Commission for Healthcare Interpreters (CCHI).</p>

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the American Society of Testing and Materials (ATSM). ATSM Standard F 2089-01 defines what a qualified interpreter is under Section 8. ATSM also defines a healthcare interpreter under Section 11.2.3.</p> <p>Commenter would also like to call attention to the Interagency Language Roundtable (ILR). Commenter states that it is a government body – a coalition of different government agencies that use languages in the course of their business. Commenter states that this organization has adopted specific scales for proficiency in interpreting and translating.</p> <p>Commenter also would like to call attention to the two national bodies that provide interpreter examinations: Certification Commission for Healthcare Interpreters (CCHI) and National Board of Certification for Medical Interpreters (NBCMI).</p> <p>Commenter states that there are 592 interpreters throughout the country who possess certification from CCHI in Spanish, Mandarin and Arabic. In addition there are 190 interpreters of</p>			

INTERPRETER SERVICES	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>other languages who have qualified for the credential know as Associate Healthcare Interpreter.</p> <p>Commenter states that the NBCMI has over 500 certified interpreters. The current provide exams in Russian and Spanish but are close to rolling out exams in Mandarin, Cantonese, Korean and Vietnamese.</p>			