

§9795.1. Definitions.

As used in this article:

(a) "Certified" means an interpreter who is certified in accordance with ~~subdivision (e) of Sections 11433-11435.30 and 11435.35~~ of the Government Code or Section 68562 of the Government Code.

(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.

~~(b)~~ (c) "Claims Administrator" means a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, or a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, or joint powers authority.

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

~~(d)~~ (e) "One-half day" means:

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

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

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

(e) "Provisionally certified" means an interpreter who is deemed to be qualified to perform services under this article, when a certified interpreter cannot be present, 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 at an appeals board hearing, or arbitration, or formal rehabilitation conference.~~

(f) "Qualified interpreter" means an interpreter who is certified ~~or provisionally certified.~~

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

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

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

§ 9795.3. Fees for Interpreter Services

(a) Fees for services performed by a qualified interpreter, where the employee does not proficiently speak or understand the English language, shall be paid by the claims administrator for any of the following events:

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

(2) Medical treatment appointments:

~~(2)~~(3) A comprehensive medical-legal evaluation as defined in subdivision (c) of Section 9793, a follow-up medical-legal evaluation as defined in subdivision (f) of Section 9793, or a supplemental medical-legal evaluation as defined in subdivision (k) of Section 9793; provided, however, that payment for interpreter's fees by the claims administrator shall not be required under this paragraph unless the medical report to which the services apply is compensable in accordance with Article 5.6. Nothing in this paragraph, however, shall be construed to relieve the party who retains an interpreter from liability to pay the interpreter's fees in the event the claims administrator is not liable.

~~(3)~~(4) A deposition of an injured employee or any person claiming benefits as a dependent of an injured employee, at the request of the claims administrator, including the following related events:

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

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

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

~~(4)~~(5) An appeals board hearing, or arbitration, ~~or formal rehabilitation conference.~~

~~(5) An informal rehabilitation conference.~~

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

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

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

(1) For an appeal board hearing, arbitration, or 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. The interpreter shall establish the market rate for the interpreter's services by submitting documentation to the claims administrator, including a list of recent similar services performed and the amounts paid for those services. Services over 8 hours shall be paid at the rate of one-eighth the full day rate for each hour of service over 8 hours.

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

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

(i) Mileage shall be paid at the minimum rate adopted by the Director of the Department of Personnel Administration pursuant to Section 19820 of the Government Code for non-represented (excluded) employees at Title 2, CCR § 599.631(a).

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

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

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

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

AUTHORITY:

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