

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
Division of Workers' Compensation**

**NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS**

**Subject Matter of Regulations: Workers' Compensation –  
Interpreter Services**

**CALIFORNIA CODE OF REGULATIONS,  
TITLE 8, ARTICLE 5.7**

**NOTICE IS HEREBY GIVEN** that the Acting Administrative Director of the Division of Workers' Compensation (hereinafter "Acting Administrative Director") pursuant to the authority vested in her by Labor Code Sections 133, 5307.3, 5710 and 5811 proposes to adopt or modify the text of the following proposed regulations:

Amend section 9795.1	Definitions
Adopt section 9795.1.5	Interpreters for hearings, depositions or arbitrations
Adopt section 9795.1.6	Interpreters for medical treatment appointments or medical legal exams
Amend section 9795.3	Fees for Interpreter Services
Adopt section 9795.5	Interpreter Directories

**PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS**

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments directly concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
P.O. Box 420603  
San Francisco, CA 94612

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on **June 5, 2013**. Written comments may be submitted via facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov).

## **AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE**

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17<sup>th</sup> Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday.

### **The specific modifications proposed include changes to the text of the following regulations and forms:**

Amend section 9795.1	Definitions
Adopt section 9795.1.5	Interpreters for hearings, depositions or arbitrations
Adopt section 9795.1.6	Interpreters for medical treatment appointments or medical legal exams
Amend section 9795.3	Fees for Interpreter Services
Adopt section 9795.5	Interpreter Directories

## **DOCUMENTS SUPPORTING THE RULEMAKING FILE**

Printouts of emails and written comments from various interested parties concerning the Division's proposed changes have been added to the rulemaking file, including the following documents:

- California Workers' Compensation Interpreters Association March 18, 2013 letter with attachments:
  - California State Personnel Board's Bilingual Services program General Information dated 5/2/05
  - California State Personnel Board's Bilingual Services Program Report from the Personnel Resources & Innovations Division date April 2001
  - SPB Advisory Panel Member Agencies and Accompanying Interpreter Training Schools/Programs dated 4/2/2004
  - SPB Bilingual Services Programs dated 4/2/2004
  - Departments with Delegated Authority to Administer Bilingual Oral Fluency Exams (list)
  - California State Personnel Board Recommendations and Resources for the Translation of Written Documents dated April 2003
  - National Council on Interpreting in Health Care, National Standards of Practice dated September 2005
  - International Medical Interpreters Association, Medical Interpreting Standards of Practice dated October 1995
  - California Healthcare Interpreters Association (CHIA), California Standards for Healthcare Interpreters dated 2002
  - Statistics for Certified Medical Spanish Interpreters in California updated

3/12/13

- Master Listing of State Certified Administrative Interpreters 2013, updated 3/2013
- Master Listing of the State of California Court Certified Interpreters 2013, updated 3/12/13
- CalHR – Bilingual Services Program dated 10/8/12
- Dept. of Managed Healthcare, Second Biennial Report to the Legislature on Language Assistance dated July 1, 2011
- Certification Commission for Healthcare Interpreters (CCHI) Credentials & Eligibility dated 2011
- CCHI Certification and “About Us” dated 10/8/12
- CCHI “A Three-Year Journey to Credentialing Excellence” dated 2012
- International Medical Interpreters Association, Medical Interpreting Standards of Practice dated 2007
- Health Workforce Initiative, Medical/Healthcare Interpreters in California, dated March 2012

## FORMAT OF PROPOSED MODIFICATIONS

### Proposed Text Noticed for Emergency Regulations:

The proposed text was indicated by underlining, thus: added language. Deletions are indicated by strikethrough, thus: ~~deleted language~~.

### Proposed Text Noticed for 45-Day Comment Period:

The proposed text was indicated by double underlining, thus: added language. Deletions are indicated by double strikethrough, thus: ~~~~deleted language~~~~.

### Proposed Text Noticed for 15-Day Comment Period on Modified Text:

The proposed text is indicated by way double underline and bold italic font, thus: ***added language***. Deletions are indicated by bold italic double strikethrough, thus: ~~~~***deleted language***~~~~.

## SUMMARY OF PROPOSED CHANGES

### 1. Section 9795.1 Definitions

Subdivision (a) “certified” is deleted, as new sections 9795.1.5 and 9795.1.6 explain what “certified” means with regard to interpreters for hearings, depositions or arbitrations and interpreters for medical treatment appointments or medical legal exams.

The remaining subdivisions are re-lettered.

Subdivision (e) “provisionally certified” is deleted as new sections 9795.1.5 and 9795.1.6 explain what “provisionally certified” means with regard to interpreters for hearings, depositions or arbitrations and interpreters for medical treatment appointments or medical legal exams.

Subdivision (f) “qualified interpreter for purposes of medical treatment appointments” is deleted as new section 9795.1.6 defines how to qualify to be paid for medical treatment appointments or medical legal exams.

## **2. Section 9795.1.5            Interpreters for hearings, depositions or arbitrations**

This section is added and provides that to qualify to be paid for interpreter services at a hearing, deposition or arbitration, the interpreter shall be (1) certified, which means listed on the State Personnel Board webpage at <http://jobs.sbp.ca.gov/InterpreterListing/> or the California Courts webpage at <http://courts.ca.gov/programs-interpreters.htm>; or (2) provisionally certified, which means deemed qualified to perform interpreter services when a certified interpreter cannot be present, either: (A) by agreement of the parties, or (B) based on a finding by the workers’ compensation administrative law judge conducting a hearing that the interpreter is qualified to interpret at the hearing, or by the arbitrator conducting the arbitration that the interpreter is qualified to interpret at the arbitration. The finding of the judge or arbitrator and the basis for the finding shall be set forth in the record of proceedings.

## **3. Section 9795.1.6            Interpreters for medical treatment appointments or medical legal exams**

This section is added and provides that 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 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](mailto:apply@healthcareinterpretercertification.org) or to CCHI, 1725 I Street NW, Suite 300, Washington, DC, 20006 (866-969-6656). Alternatively, an interpreter may be 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 of the medical evaluation.

#### **4. Section 9795.3 Fees for Interpreter Services**

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

Subdivision (a)(1) is changed from plural to singular: “A medical treatment appointment;”

Subdivision (b) is revised by deleted “qualified or” and adding “or provisionally certified.”

A new subdivision (f) is added to state: “It is the responsibility of the party producing a witness requiring an interpreter to arrange for the presence of the interpreter.”

#### **5. Section 9795.5 Interpreter Directories**

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

Subdivision (b) is revised to state: The Administrative Director shall maintain a list of certified interpreters for the purposes of medical treatment appointments and medical legal exams. An interpreter who meets the qualifications of section 9795.1.6(a)(2) must apply to the Administrative Director to be included on the list and must present a copy of the Certification Commission for Healthcare Interpreters credential indicating that the interpreter passed the exam and specifying the language. The list shall be reviewed and revised no less than annually, and shall be made available on the website [www.dir.ca.gov](http://www.dir.ca.gov) or upon request.