

**ASSEMBLY BILL**

**No. 1263**

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**Introduced by Assembly Member John A. Pérez**

February 22, 2013

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An act to add Chapter 13 (commencing with Section 3599.50) to Division 4 of Title 1 of the Government Code, and to add Article 4.6 (commencing with Section 14146) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, as introduced, John A. Pérez. Medi-Cal: CommuniCal.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing federal law provides for increased administrative funding for translation and interpretation services provided in connection with the enrollment, retention, and use of services under the Medicaid Program.

This bill would require the department to establish the Medi-Cal Patient-Centered Communication program (CommuniCal), to be administered by a 3rd-party administrator, to, commencing July 1, 2014, provide and reimburse for medical interpretation services to Medi-Cal beneficiaries who are limited English proficient (LEP). This bill would establish the CommuniCal Program Fund in the State Treasury, which would consist of moneys dedicated to the CommuniCal program, to be used upon appropriation by the Legislature to the department solely to fund the CommuniCal program.

Existing law provides for the certification of administrative hearing interpreters and medical examination interpreters for purposes of administrative adjudications.

This bill would require the State Personnel Board to be the certifying body for CommuniCal certified medical interpreters (CCMIs), to establish a certifying examination for those interpreters, and to maintain a registry of those persons who pass the exam, as specified. Commencing July 1, 2014, the bill would require Spanish-language interpreters to pass the exam and be listed on the registry in order to be eligible to provide services under CommuniCal. The bill would require the State Personnel Board, by July 1, 2014, to determine appropriate testing, training, and experience standards for other language interpreters to also be placed on the registry as CCMIs, as specified. The bill would also require the State Personnel Board to establish and charge fees that do not exceed reasonable costs for applicants to take the exam and be certified and listed in the registry and would require the State Personnel Board to adopt quality standards and medical interpretation certification requirements through regulations.

The Ralph C. Dills Act provides for employer-employee relations between the state and its employees, as specified, including, among other things, the right of state employees to form, join, and participate in the activities of employee organizations for the purpose of representation on all matters of employer-employee relations, as specified.

This bill would provide that CCMIs would have the right to form, join, and participate in the activities of a labor organization of their own choosing for the purpose of representation of specified employer-employee matters. The bill would provide that CCMIs would not be considered state employees for purposes of the bill, but would have the right to be represented by an exclusive labor organization of their own choosing for the purpose of collective bargaining with the state on matters of mutual concern, as specified.

The bill would provide that upon application by petition, authorization cards, or union membership cards of a labor organization adequately showing that a majority of CCMIs in the state desire to be represented exclusively by that labor organization, and no other labor organization is currently certified as the exclusive representative, the Public Employment Relations Board shall certify and grant exclusive representation to that labor organization, and would establish other election procedures to be administered by that board.

The bill would require that any agreement resulting from collective bargaining be legally binding upon the state and committed to writing, and would further require that, upon the completion of discussions and collective bargaining, any agreement be reduced to writing and be presented to the appropriate administrative, legislative, or other governing body in the form of a binding agreement, resolution, bill, law, or other form required for adoption.

The bill would provide that, after the certification of a labor organization, the state shall approve and have deducted, upon authorization in the case of dues deduction, from the appropriate reimbursement or other payment to the employee the monthly amount of dues or service fees as certified by an executive officer of the labor organization, and shall transmit the amount to the treasurer of the labor organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California has long been recognized as one of the most
- 4 racially and linguistically diverse states; the state is home to
- 5 residents who speak over 200 languages.
- 6 (b) Approximately one in five Californians is limited English
- 7 proficient (LEP) and identifies as speaking English less than very
- 8 well.
- 9 (c) Language access and the right to interpretation services is
- 10 required under Title VI of the federal Civil Rights Act of 1964,
- 11 the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter
- 12 17.5 (commencing with Section 7290) of Division 7 of Title 1 of
- 13 the Government Code), the Knox-Keene Health Care Service Plan
- 14 Act of 1975 (Chapter 2.2 (commencing with Section 1340) of
- 15 Division 2 of the Health and Safety Code), Section 11135 of the
- 16 Government Code, Section 1259 of the Health and Safety Code,
- 17 and California civil rights law.
- 18 (d) The demand for medical interpretation services by Medi-Cal
- 19 beneficiaries is significant, with 45.2 percent of Medi-Cal
- 20 beneficiaries speaking a language other than English.

1 (e) The state will experience an even greater demand for  
2 language services as health care reform measures are implemented  
3 over the next few years and 35 percent of Californians expected  
4 to become newly eligible for Medi-Cal as a result of the federal  
5 Patient Protection and Affordable Care Act (Public Law 111-148)  
6 will speak English less than well.

7 (f) In California, language assistance services are provided in  
8 an uncoordinated manner that lacks transparency and  
9 accountability, and a majority of services are currently provided  
10 ad hoc by family members and friends or untrained staff.

11 (g) California has the opportunity to meet the growing demand  
12 early on by accessing millions of dollars in federal matching funds  
13 to provide medical interpretation services to LEP Medi-Cal  
14 beneficiaries.

15 (h) Professional medical interpretation services help reduce  
16 avoidable medical errors and provider malpractice liability for  
17 physicians and other health care providers.

18 (i) A coordinated program to offer medical interpreter services  
19 will improve health care outcomes for LEP Californians and help  
20 control health care costs that result from a lack of access to  
21 preventative and primary care.

22 SEC. 2. It is the intent of the Legislature to do all of the  
23 following:

24 (a) Create the CommuniCal program, which shall provide  
25 reliable access to language interpretation for Medi-Cal beneficiaries  
26 who are limited English proficient.

27 (b) Establish a mechanism for accessing federal Medicaid  
28 matching funds to provide a majority of the funding for the  
29 CommuniCal program.

30 (c) Enable trained and qualified interpreters to meet the demand  
31 for language services for a significant portion of the estimated  
32 three million Medi-Cal beneficiaries with limited English  
33 proficiency.

34 (d) Facilitate accurate and timely communication between  
35 limited-English-proficient patients and their health care providers,  
36 which will improve quality of care, reduce medical errors, increase  
37 patient understanding and compliance with health diagnoses and  
38 care plans, and reduce the cost of health care by eliminating waste,  
39 such as unnecessary tests and other care.

1 SEC. 3. Chapter 13 (commencing with Section 3599.50) is  
2 added to Division 4 of Title 1 of the Government Code, to read:

3  
4 CHAPTER 13. COMMUNICAL CERTIFIED MEDICAL  
5 INTERPRETERS  
6

7 Article 1. Certification and Registration of CommuniCal  
8 Medical Interpreters  
9

10 3599.50. (a) For purposes of this chapter, the following  
11 definitions apply:

12 (1) “CommuniCal” means the Medi-Cal Patient-Centered  
13 Communication program established pursuant to Article 4.6  
14 (commencing with Section 14146) of Chapter 7 of Part 3 of  
15 Division 9 of the Welfare and Institutions Code.

16 (2) “CommuniCal certified medical interpreter” or “CCMI”  
17 means an interpreter who has been certified pursuant to Section  
18 3599.51.

19 (3) “Certifying body” means the State Personnel Board.

20 (4) “Exam” means the CommuniCal Certified Medical  
21 Interpreter Exam.

22 (b) Notwithstanding any other law, the State Personnel Board  
23 shall serve as the CommuniCal certified medical interpreter  
24 (CCMI) certifying body. The certifying body shall select an  
25 examination through which competency will be tested and provide  
26 for the certification of Spanish-language medical interpretation  
27 within 120 days of the implementation of this bill. The examination  
28 shall be known as the CommuniCal Certified Medical Interpreter  
29 Exam. It shall have both an oral and a written component. The oral  
30 component shall be conducted in person in each of the major  
31 metropolitan areas in the State of California.

32 3599.51. (a) The certifying body shall select a nonprofit  
33 organization to administer the exam. The nonprofit organization  
34 shall have a statewide presence. A list of all interpreters who pass  
35 the exam shall be maintained by the certifying body and shall be  
36 known as the CommuniCal Certified Medical Interpreter Registry.  
37 A CCMI is someone who has passed the exam, is listed on the  
38 registry, and has been issued a certificate by the certifying body  
39 attesting that the person is a CommuniCal Certified Medical  
40 Interpreter.

1 (b) (1) Commencing July 1, 2014, in order to be eligible to  
2 provide services under CommuniCal, Spanish-language interpreters  
3 shall be required to pass the exam and be listed on the registry.

4 (2) For those languages of lesser diffusion or languages for  
5 which a recognized medical interpreter exam has not been created,  
6 the certifying body shall determine, by July 1, 2014, with certified  
7 medical interpreters and their exclusive representatives, appropriate  
8 testing, training, and experience standards for interpreters to also  
9 be placed on the registry and listed as CommuniCal Certified  
10 Medical Interpreters.

11 (3) In order to meet anticipated demand for services under  
12 CommuniCal, the state shall certify the following individuals as  
13 certified interpreters and place them on the registry:

14 (A) An individual who can demonstrate that as of January 1,  
15 2014, he or she has worked for a minimum of two years as a  
16 medical interpreter.

17 (B) An individual who has graduated from an accredited medical  
18 interpreter training program at a college or university before  
19 January 1, 2014.

20 3599.52. (a) The certifying body shall establish and charge  
21 fees, which do not exceed the reasonable costs, for applicants to  
22 take the exam. The certifying body shall establish and charge a  
23 single fee that does not exceed the reasonable costs for certification  
24 and listing on the registry. The purpose of these fees is to cover  
25 the annual projected costs of carrying out this article.

26 (b) Each CCMI shall pay a registry and certification fee, not to  
27 exceed the reasonable costs, for the renewal of the certification  
28 and continued listing on the registry. The registry and certificate  
29 fee shall be due on July 1 of each year.

30 (c) The certifying body shall establish, maintain, administer,  
31 and publish annually an updated registry of CCMI's. The certifying  
32 body may remove the name of a person from the registry if any of  
33 the following conditions occurs:

34 (1) The person is deceased.

35 (2) The person notifies the board that the person is unavailable  
36 for work.

37 (3) The person does not submit a registry and certification fee  
38 or renewal fee as required by subdivision (b).

39 (4) The person fails to meet the quality standards and medical  
40 certification requirements established pursuant to Section 3599.53.

1 (d) For the 2013–14 fiscal year only, the fee for certification  
2 and listing on the registry pursuant to paragraph (3) of subdivision  
3 (b) of Section 3599.51 is waived.

4 3599.53. The certifying body shall adopt quality standards and  
5 medical interpretation certification requirements through  
6 regulations, which shall include, but not be limited to, maintaining  
7 patient confidentiality and familiarity or experience working with  
8 medical terminology. It shall determine the testing requirements  
9 for certification in each language and create a list of those  
10 languages where standards permit registration of the interpreter.

11 3599.54. The exclusive representative of CCMI's and a  
12 recognized nonprofit organization shall partner to create and  
13 administer a training program for medical interpreters, in order to  
14 prepare interpreters for the exam or other certification standards  
15 established for languages of lesser diffusion and provide continuing  
16 education for those CCMI's placed on the registry. A community  
17 advisory committee shall be established to make recommendations  
18 on interpreter certification and services.

19 3599.55. The relationship of CCMI's to all parties and recipients  
20 of service is one of independent contractor, unless otherwise  
21 specified by law.

22 3599.56. Only interpreters certified pursuant to this article shall  
23 be represented by the union for purposes of collective bargaining  
24 pursuant to Article 2 (commencing with Section 3610).

25  
26 Article 2. Collective Bargaining for CommuniCal Certified  
27 Medical Interpreters  
28

29 3610. (a) CCMI's shall have the right to form, join, and  
30 participate in the activities of a labor organization of their own  
31 choosing for the purpose of representation on all matters specified  
32 in this section. The state action antitrust exemption to the  
33 application of federal and state antitrust laws is applicable to the  
34 activities of CCMI's and their exclusive representatives authorized  
35 under this article or other applicable law.

36 (b) CCMI's shall have the right to be represented by an exclusive  
37 labor organization of their own choosing for the purpose of  
38 collective bargaining with the State of California on matters of  
39 mutual concern, including, but not limited to, the following:

- 40 (1) Development, maintenance, and application of the registry.

1 (2) The setting of reimbursements and rates for state-funded  
2 medical interpreter programs.

3 (3) The allocation, process, procedure, distribution,  
4 methodology, and manner of payment of interpreter  
5 reimbursements and rates.

6 (4) Professional development, certification and training,  
7 recruitment and retention of qualified interpreters, and language  
8 access quality standards.

9 (5) Dispute resolution mechanisms binding on third-party  
10 administrators and their subcontractors of state-funded interpreter  
11 programs.

12 (6) Mechanisms and funding to improve state-funded medical  
13 interpreter programs and the stability, funding, rules, regulations,  
14 and operation of state-funded medical interpretation programs.

15 (7) Scheduling systems of interpreter services under state-funded  
16 interpreter programs.

17 (8) Mediums and modes of delivery of interpretation services  
18 under state-funded medical interpretation programs.

19 (9) The improvement and expansion of quality medical  
20 interpretation services.

21 (10) The collection and disbursement of established dues or  
22 fees to the exclusive representative of CCMIIs.

23 (c) This section shall not apply to work performed as an  
24 employee of an employer.

25 (d) The appropriate bargaining unit for CCMIIs shall be a  
26 statewide unit of eligible CCMIIs.

27 (e) CCMIIs are not public employees and this article does not  
28 create an employer-employee relationship between CCMIIs and  
29 the state or patient-centered communication brokers for any  
30 purpose, including, but not limited to, state employee eligibility  
31 for health or retirement benefits, or vicarious liability in tort.

32 3611. A labor organization as referenced in this section is  
33 defined as a labor organization described in Section 501(c)(5) of  
34 the Internal Revenue Code which has as its primary purpose the  
35 representation of public service providers in their relations with  
36 state and other public entities.

37 3612. Upon request by a labor organization that is signed by  
38 20 percent of CCMIIs, the certifying body shall furnish to the labor  
39 organization a list of all CCMIIs including full names, telephone

1 numbers, e-mail addresses, and mailing or home addresses within  
2 five days of the request.

3 3613. (a) Upon application by petition, authorization cards,  
4 or union membership cards of a labor organization adequately  
5 showing that a majority of CCMI's in the state desire to be  
6 represented exclusively by that labor organization, and no other  
7 labor organization is currently certified as the exclusive  
8 representative, the Public Employment Relations Board (PERB)  
9 shall certify and grant exclusive representation of the CCMI's to  
10 the labor organization for the purposes set forth in this section.

11 (b) Upon application by petition, authorization cards, or union  
12 membership cards of a labor organization adequately showing that  
13 less than a majority but at least 30 percent of CCMI's desire to be  
14 represented exclusively by that labor organization, and no other  
15 labor organization is currently certified as the exclusive  
16 representative, the matter to determine representation shall be set  
17 for a mail ballot election administered by PERB pursuant to its  
18 rules and regulations for administering elections. If a PERB  
19 regulation or rule conflicts with this section, this section shall  
20 control.

21 (c) PERB shall accept, review, and certify all valid applications  
22 submitted pursuant to subdivisions (a) and (b) pursuant to its rules  
23 and regulations. If a PERB regulation or rule conflicts with this  
24 section, this section shall control.

25 (d) Any representation election shall be a mail ballot election.

26 (e) Within 10 days of receipt of an adequate petition,  
27 authorization cards, or union membership cards necessitating an  
28 election, PERB shall conduct a preelection conference with the  
29 labor organization and the state prior to scheduling an election for  
30 the purpose of clarifying issues, obtaining stipulations, executing  
31 a directed election order or consent election agreement, and taking  
32 other actions to expedite the process. The labor organization and  
33 the state shall engage in a good faith effort to reach a consent  
34 election agreement stipulating the parties to appear on the ballot,  
35 the form of the ballot, the CCMI's eligible to vote, the rules  
36 governing the election, and the date, time, and other specifics of  
37 the mail ballot election. The state shall be represented by the  
38 Department of Personnel Administration and the State Department  
39 of Health Care Services.

1 3614. No other labor organization shall be permitted to  
2 intervene in an election unless prior to the preelection conference,  
3 by petition, authorization cards, or union membership cards, the  
4 intervening labor organization adequately shows at least 30 percent  
5 of CCMI's in the state as of January 1 of the year the application  
6 is made desire to be represented exclusively by the intervening  
7 labor organization.

8 3615. PERB shall proceed to determine all issues or matters  
9 in dispute. The determination and a directed election order or  
10 consent election agreement between the labor organization and  
11 the state shall be made within seven days of the conference.

12 3616. (a) PERB shall initiate a mail ballot election within 10  
13 days of the execution of a directed election order or consent  
14 election agreement. The election shall provide for an affirmative  
15 vote for employee representation by the petitioning employee  
16 organization. The proposition receiving the votes of a majority of  
17 all valid votes cast shall win the election. Should no option receive  
18 an absolute majority vote of all valid votes cast, a runoff vote  
19 between the two options receiving the highest number of votes  
20 shall occur within seven days.

21 (b) A preelection meeting shall occur with the labor organization  
22 and the state 30 minutes prior to the mailing of ballots for the  
23 purpose of resolving any final issues prior to the commencement  
24 of the mail ballot election.

25 (c) The election shall be conducted in accordance with the  
26 procedures established and approved pursuant to the consent  
27 election agreement or directed election order.

28 (d) The supervising official from PERB shall determine the date  
29 and time ballots must be received for tabulation, which date shall  
30 not be sooner than 10 days or more than 20 days from the date the  
31 voting commences. PERB shall be charged with validating the  
32 ballots against a list of CCMI's provided by the State Personnel  
33 Board.

34 (e) A labor organization certified by PERB as receiving a  
35 majority of all valid votes cast is the exclusive representative of  
36 all CCMI's in the state for purposes set forth in this section. All  
37 CCMI's who are eligible for the bargaining unit pursuant to Section  
38 3610 subsequent to certification of the labor organization shall be  
39 part of the bargaining unit and represented by the certified labor  
40 organization.

1 3617. Discussions and collective bargaining between the  
2 certified labor organization and the state and its designated agents  
3 in the Department of Personnel Administration and the State  
4 Department of Health Care Services shall commence within 30  
5 days upon certification and at any time thereafter upon request of  
6 the labor organization.

7 3618. The state and its designated agents in the Department of  
8 Personnel Administration and the State Department of Health Care  
9 Services shall be required to meet with the certified labor  
10 organization before any regulation is proposed, promulgated, set,  
11 or otherwise presented concerning any of the purposes for  
12 collective bargaining set forth in Section 3610.

13 3619. Any agreement resulting from collective bargaining shall  
14 be legally binding upon the state and committed to writing. Upon  
15 the completion of discussions and collective bargaining, any  
16 agreement shall be reduced to writing and be presented to the  
17 appropriate administrative, legislative, or other governing body in  
18 the form of a binding agreement, resolution, bill, law, or other  
19 form required for adoption. Nothing herein shall prevent the parties  
20 from agreeing to and effecting those provisions of an agreement  
21 which have received legislative approval or those provisions which  
22 do not require legislative action.

23 3620. Nothing in this article shall affect the right of a CCMI  
24 to authorize a dues or service fee deduction from his or her  
25 reimbursement.

26 3621. (a) After the certification of a labor organization, the  
27 state shall approve and have deducted, upon authorization in the  
28 case of dues deduction, from the appropriate reimbursement or  
29 other payment to members of the labor organization the monthly  
30 amount of dues or service fees as certified by an executive officer  
31 of the labor organization and shall transmit the amount to the  
32 treasurer of the labor organization.

33 (b) After the certification of a labor organization, the state shall  
34 approve and have deducted from the appropriate reimbursement  
35 or other payment to nonmembers a reasonable fair share service  
36 fee for the cost of representing them in negotiations, contract  
37 administration, subsidy rates, benefits, payment systems, training  
38 opportunities, and other matters related to those purposes listed in  
39 subdivision (b) of Section 3610. This fair share service fee shall  
40 not exceed the annual dues paid by members of the labor

1 organization. The state shall transmit the amount of the fair share  
2 fee to the treasurer of the labor organization.

3 3622. Dues or fair share service fee obligations shall continue  
4 in effect as long as the labor organization is the recognized  
5 bargaining representative, notwithstanding the expiration of any  
6 agreement between the state and the recognized labor organization.

7 3623. (a) The state through its designated agents in the  
8 Department of Personnel Administration and the State Department  
9 of Health Care Services shall meet and collectively bargain in good  
10 faith with representatives of a certified labor organization and shall  
11 consider fully the proposals made by the labor organization on  
12 behalf of CCMI. "Meet and collectively bargain in good faith"  
13 means that the state and its designated agent and representatives  
14 of a certified labor organization shall have the mutual obligation  
15 to collectively bargain within a reasonable length of time in order  
16 to freely exchange information, opinions, and proposals.

17 (b) The state shall not interfere with, intimidate, restrain, coerce,  
18 or discriminate against CCMI due to the exercise of their rights  
19 under this section. A complaint alleging any violation of this  
20 section shall be processed as an unfair practice charge by PERB  
21 pursuant to its rules and regulations. The initial determination as  
22 to whether the charge of unfair practice is justified and, if so, the  
23 appropriate remedy necessary to effectuate the purposes of this  
24 section, shall be a matter within the exclusive jurisdiction of PERB.  
25 PERB shall apply and interpret unfair labor practices consistent  
26 with existing judicial interpretations of this section. If a PERB  
27 practice, regulation, interpretation, or rule conflicts with this  
28 section, this section shall control.

29 3624. Any charging party, respondent, or intervenor aggrieved  
30 by a final decision or order of PERB in an unfair practice case,  
31 except a decision of PERB not to issue a complaint in such a case,  
32 and any party to a final decision or order of PERB in a  
33 representation, recognition, or election matter that is not brought  
34 as an unfair practice case, may petition for a writ of extraordinary  
35 relief from that decision or order pursuant to Section 3520.

36 3625. Execution of a valid written agreement between the state  
37 and the certified labor organization shall bar the filing of an  
38 application or petition for certification of a majority representative  
39 for the length of the agreement except as otherwise provided in

1 this article. No application or petition for certification shall be  
2 valid within one year of any prior certification.

3 3626. Should any court declare any other provision of this  
4 chapter void, invalid, illegal, or unconstitutional, the remaining  
5 provisions shall remain in full force.

6 3627. (a) The state shall not encourage or discourage  
7 membership in a labor organization and shall not discriminate  
8 against any CCMI on the basis of union activity, concerted action,  
9 union membership, age, sex, race, religious beliefs, color, national  
10 origin, sexual orientation, gender identity, or disability in  
11 accordance with and as required by applicable state and federal  
12 law. A CCMI shall not be subject to punitive action, or threatened  
13 with punitive action, for the exercise of lawful action as an elected,  
14 appointed, or recognized representative of any bargaining unit.

15 (b) Unless otherwise stated in this article, the state may adopt  
16 reasonable rules and regulations after consultation in good faith  
17 with representatives of a certified labor organization for the  
18 administration of CCMI employer-employee relations under this  
19 article. In the case of any conflict between rules and regulations  
20 enacted pursuant to this article, including those subdivisions  
21 adopting PERB rules, regulations, or procedures, the provisions  
22 of this section shall control.

23 3628. Nothing in this chapter may be construed to interfere  
24 with CCMI rights and responsibilities under federal law.

25 SEC. 4. Article 4.6 (commencing with Section 14146) is added  
26 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions  
27 Code, to read:

28

29

#### Article 4.6. CommuniCal

30

31 14146. For the purposes of this article, the following definitions  
32 shall apply:

33 (a) “CommuniCal” means the Medi-Cal Patient-Centered  
34 Communication program.

35 (b) “CommuniCal certified medical interpreter” or “CCMI”  
36 means an interpreter certified under the CommuniCal program  
37 pursuant to Article 1 (commencing with Section 3599.50) of  
38 Chapter 13 of Division 4 of Title 1 of the Government Code.

39 (c) “Department” means the State Department of Health Care  
40 Services.

1 (d) “Medi-Cal managed care organizations” or “MMCOs” means  
2 all models of Medi-Cal managed care, including county-organized  
3 health systems, geographic managed care, and two-plan models.

4 (e) “Patient-centered communication broker” or “broker” means  
5 the third-party administrator for the CommuniCal program.

6 14146.10. (a) The department shall establish the CommuniCal  
7 program to provide and reimburse for certified medical  
8 interpretation services to Medi-Cal beneficiaries who are limited  
9 English proficient (LEP).

10 (b) Commencing July 1, 2014, CommuniCal shall offer medical  
11 interpreter services to Medi-Cal providers serving Medi-Cal  
12 beneficiaries on either a fee-for-service or managed care basis  
13 pursuant to this article. The department shall adopt policies to  
14 prohibit duplicate payments to CCMIs and Medi-Cal MMCOs for  
15 beneficiaries enrolled in an MMCO.

16 (c) A health care provider or entity entering into a Medi-Cal  
17 provider agreement or a Medi-Cal managed care contract with the  
18 state, including MMCOs and their subcontracting plans, and  
19 fee-for-service providers, may utilize CommuniCal to provide  
20 medical interpreter services to Medi-Cal beneficiaries.

21 (d) All contracts between MMCOs and their subcontractors,  
22 including health providers and other health plans, shall include  
23 provisions describing access to CommuniCal medical interpreter  
24 services.

25 (e) The department shall pursue all available sources of federal  
26 funding to establish and operate CommuniCal and shall seek any  
27 federal approvals necessary to implement this article.

28 14146.11. CommuniCal shall include the provision of  
29 in-person, telephonic, and video medical interpretation services.  
30 To meet language access requirements and ensure patient safety,  
31 in-person interpreter services shall be the preferred mode of  
32 medical interpretation in the following instances whenever  
33 possible:

34 (a) Family meetings regarding medical care.

35 (b) Medical encounters involving difficult or agitated patients.

36 (c) Medical encounters to make treatment decisions.

37 (d) Obtaining informed consent involving review of documents.

38 (e) Any medical encounter that, in the physician’s judgment,  
39 requires in-person interpretation for the health, safety, or well-being  
40 of the patient.

1 (f) Psychiatric encounters.

2 (g) End-of-life discussions.

3 14146.12. (a) CommuniCal shall be administered by a  
4 patient-centered communication broker.

5 (b) The department shall create and administer a competitive  
6 Request for Proposals (RFP), and shall execute the resulting  
7 contract.

8 (c) The broker shall be responsible for all of the following  
9 duties:

10 (1) Registering CCMI with Medi-Cal.

11 (2) Verifying CCMI certification with the State Personnel Board.

12 (3) Verifying Medi-Cal eligibility for interpreter services  
13 utilizing the state's Medi-Cal Eligibility Data System (MEDS).

14 (4) Submitting billing summaries to Medi-Cal, aggregating the  
15 cost for services provided.

16 (5) Ensuring compliance with all Medi-Cal and applicable  
17 CommuniCal reporting requirements.

18 (6) Making payments to CCMI, including any dues and service  
19 fee deductions.

20 (7) Scheduling CCMI appointments with Medi-Cal providers.

21 (8) Monitoring the quality of CommuniCal interpreter services  
22 and complying with state oversight requirements of the program.

23 (9) Creating CommuniCal promotional materials for distribution  
24 to Medi-Cal providers, MMCOs, and beneficiaries.

25 (d) The department shall make all applicable Medi-Cal reporting  
26 requirements known to the broker and shall be responsible for the  
27 broker's compliance with these requirements.

28 14146.13. (a) Notwithstanding any other law, only interpreters  
29 certified pursuant to Article 1 (commencing with Section 3599.50)  
30 of Chapter 13 of Division 4 of Title 1 of the Government Code  
31 may participate in CommuniCal.

32 (b) CCMI shall be responsible for all of the following:

33 (1) Performing interpreter services independent of other policies,  
34 rules, or procedures of conduct, except as provided by this article  
35 or by applicable law.

36 (2) Performing interpreter services independent of direction,  
37 except as otherwise provided by this article and applicable law.

38 (3) Preparing and submitting documentation to the broker in  
39 support of time worked or other services rendered.

1 (4) Directing and controlling the manner and means of  
2 interpretation services, except as otherwise provided in this article.

3 (c) Unless otherwise prohibited by this article or applicable law,  
4 CCMIs may do any of the following:

5 (1) Advertise, promote, or otherwise communicate availability  
6 for services to clients and the general public.

7 (2) Provide office space, equipment, support services, forms,  
8 supplies, and business cards, except as otherwise provided in this  
9 article.

10 (d) (1) For purposes of the CommuniCal program, CCMIs are  
11 not state employees. CCMIs shall be independent contractors of  
12 the state.

13 (2) For purposes of the CommuniCal program, CCMIs are not  
14 employees of the broker, health care providers, or consumers.

15 (3) The state action antitrust exemption to the application of  
16 federal and state antitrust laws is applicable to the activities of  
17 CCMIs and their exclusive representatives authorized under this  
18 article or other applicable law.

19 14146.135. (a) The base reimbursement rate for CCMIs shall  
20 be no less than sixty dollars (\$60) per hour.

21 (b) Reimbursement may be adjusted for factors such as  
22 geography, language spoken, availability of interpreters, level of  
23 certification, and travel time.

24 14146.14. The department shall issue guidance on the  
25 administration of the CommuniCal program to ensure compliance  
26 with this article and all applicable state and federal laws by all  
27 contractors and subcontractors of the program.

28 14146.15. (a) The CommuniCal Program Fund is hereby  
29 created in the State Treasury. Notwithstanding Section 16305.7  
30 of the Government Code, any interest and dividends earned on  
31 deposits in the fund shall be retained in the fund for purposes  
32 specified in subdivision (c).

33 (b) Moneys in the fund shall consist of any funds dedicated to  
34 the CommuniCal program.

35 (c) Moneys in the fund shall, upon appropriation by the  
36 Legislature to the department, be used solely to fund the  
37 CommuniCal program.

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