

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1263

Introduced by Assembly Member John A. Pérez

February 22, 2013

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 amended, 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 bill would require the Department of Human Resources to notify the individual of the acceptance or denial of his or her inclusion on the registry within 10 days of the submission of the application.*

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.

1 (d) The demand for medical interpretation services by Medi-Cal
2 beneficiaries is significant, with 45.2 percent of Medi-Cal
3 beneficiaries speaking a language other than English.

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

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

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

18 (h) Professional medical interpretation services help reduce
19 avoidable medical errors and provider malpractice liability for
20 physicians and other health care providers.

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

25 SEC. 2. It is the intent of the Legislature to do all of the
26 following:

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

30 (b) Establish a mechanism for accessing federal Medicaid
31 matching funds to provide a majority of the funding for the
32 CommuniCal program.

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

37 (d) Facilitate accurate and timely communication between
38 limited-English-proficient patients and their health care providers,
39 which will improve quality of care, reduce medical errors, increase
40 patient understanding and compliance with health diagnoses and

1 care plans, and reduce the cost of health care by eliminating waste,
2 such as unnecessary tests and other care.

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

5
6 CHAPTER 13. COMMUNICAL CERTIFIED MEDICAL
7 INTERPRETERS

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

11
12 3599.50. (a) For purposes of this chapter, the following
13 definitions apply:

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

18 (2) “CommuniCal certified medical interpreter” or “CCMI”
19 means an interpreter who has been certified pursuant to Section
20 3599.51.

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

22 (4) “Exam” means the CommuniCal Certified Medical
23 Interpreter Exam.

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

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

1 attesting that the person is a CommuniCal Certified Medical
 2 Interpreter.

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

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

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

16 (A) An individual who can demonstrate that as of January 1,
 17 2014, he or she has worked for a minimum of two years as a *an*
 18 *in-person* medical interpreter.

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

22 (4) *The Department of Human Resources shall notify the*
 23 *individual of the acceptance or denial of his or her inclusion on*
 24 *the registry within 10 days of the submission of the application.*

25 (5) *The effective date of the registry shall be January 1, 2014.*

26 3599.52. (a) The certifying body shall establish and charge
 27 fees, which do not exceed the reasonable costs, for applicants to
 28 take the exam. The certifying body shall establish and charge a
 29 single fee that does not exceed the reasonable costs for certification
 30 and listing on the registry. The purpose of these fees is to cover
 31 the annual projected costs of carrying out this article.

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

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

40 (1) The person is deceased.

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

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

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

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

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

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

25 3599.55. The relationship of CCMI's to all parties and recipients
26 of service is one of independent contractor, unless otherwise
27 specified by law.

28 3599.56. Only interpreters certified pursuant to this article shall
29 be represented by ~~the union~~ *a labor organization* for purposes of
30 collective bargaining pursuant to Article 2 (commencing with
31 Section 3610).

32

33 Article 2. Collective Bargaining for CommuniCal Certified
34 Medical Interpreters

35

36 3610. (a) CCMI's shall have the right to form, join, and
37 participate in the activities of a labor organization of their own
38 choosing for the purpose of representation on all matters specified
39 in this section. The state action antitrust exemption to the
40 application of federal and state antitrust laws is applicable to the

1 activities of CCMIIs and their exclusive representatives authorized
2 under this article or other applicable law.

3 (b) CCMIIs shall have the right to be represented by an exclusive
4 labor organization of their own choosing for the purpose of
5 collective bargaining with the State of California on matters of
6 mutual concern, including, but not limited to, the following:

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

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

10 (3) The allocation, process, procedure, distribution,
11 methodology, and manner of payment of interpreter
12 reimbursements and rates.

13 (4) Professional development, certification and training,
14 recruitment and retention of qualified interpreters, and language
15 access quality standards.

16 (5) Dispute resolution mechanisms binding on third-party
17 administrators and their subcontractors of state-funded interpreter
18 programs.

19 (6) Mechanisms and funding to improve state-funded medical
20 interpreter programs and the stability, funding, rules, regulations,
21 and operation of state-funded medical interpretation programs.

22 (7) Scheduling systems of interpreter services under state-funded
23 interpreter programs.

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

26 (9) The improvement and expansion of quality medical
27 interpretation services.

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

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

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

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

39 3611. A labor organization as referenced in this section is
40 defined as a labor organization described in Section 501(c)(5) of

1 the Internal Revenue Code which has as its primary purpose the
2 representation of public service providers in their relations with
3 state and other public entities.

4 3612. Upon request by a labor organization that is signed by
5 20 percent of CCMI's, the certifying body shall furnish to the labor
6 organization a list of all CCMI's including full names, telephone
7 numbers, e-mail addresses, and mailing or home addresses within
8 five days of the request.

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

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

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

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

32 (e) Within 10 days of receipt of an adequate petition,
33 authorization cards, or union membership cards necessitating an
34 election, PERB shall conduct a preelection conference with the
35 labor organization and the state prior to scheduling an election for
36 the purpose of clarifying issues, obtaining stipulations, executing
37 a directed election order or consent election agreement, and taking
38 other actions to expedite the process. The labor organization and
39 the state shall engage in a good faith effort to reach a consent
40 election agreement stipulating the parties to appear on the ballot,

1 the form of the ballot, the CCMIIs eligible to vote, the rules
2 governing the election, and the date, time, and other specifics of
3 the mail ballot election. The state shall be represented by the
4 Department of Personnel Administration and the State Department
5 of Health Care Services.

6 3614. No other labor organization shall be permitted to
7 intervene in an election unless prior to the preelection conference,
8 by petition, authorization cards, or union membership cards, the
9 intervening labor organization adequately shows at least 30 percent
10 of CCMIIs in the state as of January 1 of the year the application
11 is made desire to be represented exclusively by the intervening
12 labor organization.

13 3615. PERB shall proceed to determine all issues or matters
14 in dispute. The determination and a directed election order or
15 consent election agreement between the labor organization and
16 the state shall be made within seven days of the conference.

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

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

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

33 (d) The supervising official from PERB shall determine the date
34 and time ballots must be received for tabulation, which date shall
35 not be sooner than 10 days or more than 20 days from the date the
36 voting commences. PERB shall be charged with validating the
37 ballots against a list of CCMIIs provided by the State Personnel
38 Board.

39 (e) A labor organization certified by PERB as receiving a
40 majority of all valid votes cast is the exclusive representative of

1 all CCMIIs in the state for purposes set forth in this section. All
2 CCMIIs who are eligible for the bargaining unit pursuant to Section
3 3610 subsequent to certification of the labor organization shall be
4 part of the bargaining unit and represented by the certified labor
5 organization.

6 3617. Discussions and collective bargaining between the
7 certified labor organization and the state and its designated agents
8 in the Department of Personnel Administration and the State
9 Department of Health Care Services shall commence within 30
10 days upon certification and at any time thereafter upon request of
11 the labor organization.

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

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

28 3620. Nothing in this article shall affect the right of a CCMI
29 to authorize a dues or service fee deduction from his or her
30 reimbursement.

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

38 (b) After the certification of a labor organization, the state shall
39 approve and have deducted from the appropriate reimbursement
40 or other payment to nonmembers a reasonable fair share service

1 fee for the cost of representing them in negotiations, contract
2 administration, subsidy rates, benefits, payment systems, training
3 opportunities, and other matters related to those purposes listed in
4 subdivision (b) of Section 3610. This fair share service fee shall
5 not exceed the annual dues paid by members of the labor
6 organization. The state shall transmit the amount of the fair share
7 fee to the treasurer of the labor organization.

8 3622. Dues or fair share service fee obligations shall continue
9 in effect as long as the labor organization is the recognized
10 bargaining representative, notwithstanding the expiration of any
11 agreement between the state and the recognized labor organization.

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

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

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

1 3625. Execution of a valid written agreement between the state
2 and the certified labor organization shall bar the filing of an
3 application or petition for certification of a majority representative
4 for the length of the agreement except as otherwise provided in
5 this article. No application or petition for certification shall be
6 valid within one year of any prior certification.

7 3626. Should any court declare any other provision of this
8 chapter void, invalid, illegal, or unconstitutional, the remaining
9 provisions shall remain in full force.

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

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

27 3628. Nothing in this chapter may be construed to interfere
28 with CCMI rights and responsibilities under federal law.

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

32

33

Article 4.6. CommuniCal

34

35 14146. For the purposes of this article, the following definitions
36 shall apply:

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

39 (b) “CommuniCal certified medical interpreter” or “CCMI”
40 means an interpreter certified under the CommuniCal program

1 pursuant to Article 1 (commencing with Section 3599.50) of
2 Chapter 13 of Division 4 of Title 1 of the Government Code.

3 (c) “Department” means the State Department of Health Care
4 Services.

5 (d) “Medi-Cal managed care organizations” or “MMCOS” means
6 all models of Medi-Cal managed care, including county-organized
7 health systems, geographic managed care, and two-plan models.

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

10 14146.10. (a) The department shall establish the CommuniCal
11 program to provide and reimburse for certified medical
12 interpretation services to Medi-Cal beneficiaries who are limited
13 English proficient (LEP).

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

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

25 (d) All contracts between MMCOS and their subcontractors,
26 including health providers and other health plans, shall include
27 provisions describing access to CommuniCal medical interpreter
28 services.

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

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

38 (a) Family meetings regarding medical care.

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

40 (c) Medical encounters to make treatment decisions.

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

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

5 (f) Psychiatric encounters.

6 (g) End-of-life discussions.

7 14146.12. (a) CommuniCal shall be administered by a
8 patient-centered communication broker.

9 (b) The department shall create and administer a competitive
10 Request for Proposals (RFP), and shall execute the resulting
11 contract.

12 (c) The broker shall be responsible for all of the following
13 duties:

14 (1) Registering CCMI with Medi-Cal.

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

16 (3) Verifying Medi-Cal eligibility for interpreter services
17 utilizing the state’s Medi-Cal Eligibility Data System (MEDS).

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

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

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

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

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

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

29 (d) The department shall make all applicable Medi-Cal reporting
30 requirements known to the broker and shall be responsible for the
31 broker’s compliance with these requirements.

32 14146.13. (a) Notwithstanding any other law, only interpreters
33 certified pursuant to Article 1 (commencing with Section 3599.50)
34 of Chapter 13 of Division 4 of Title 1 of the Government Code
35 may participate in CommuniCal.

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

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

- 1 (2) Performing interpreter services independent of direction,
2 except as otherwise provided by this article and applicable law.
- 3 (3) Preparing and submitting documentation to the broker in
4 support of time worked or other services rendered.
- 5 (4) Directing and controlling the manner and means of
6 interpretation services, except as otherwise provided in this article.
- 7 (c) Unless otherwise prohibited by this article or applicable law,
8 CCMIIs may do any of the following:
 - 9 (1) Advertise, promote, or otherwise communicate availability
10 for services to clients and the general public.
 - 11 (2) Provide office space, equipment, support services, forms,
12 supplies, and business cards, except as otherwise provided in this
13 article.
 - 14 (d) (1) For purposes of the CommuniCal program, CCMIIs are
15 not state employees. CCMIIs shall be independent contractors of
16 the state.
 - 17 (2) For purposes of the CommuniCal program, CCMIIs are not
18 employees of the broker, health care providers, or consumers.
 - 19 (3) The state action antitrust exemption to the application of
20 federal and state antitrust laws is applicable to the activities of
21 CCMIIs and their exclusive representatives authorized under this
22 article or other applicable law.
- 23 14146.135. (a) The base reimbursement rate for CCMIIs shall
24 be no less than sixty dollars (\$60) per hour.
- 25 (b) Reimbursement may be adjusted for factors such as
26 geography, language spoken, availability of interpreters, level of
27 certification, and travel time.
- 28 14146.14. The department shall issue guidance on the
29 administration of the CommuniCal program to ensure compliance
30 with this article and all applicable state and federal laws by all
31 contractors and subcontractors of the program.
- 32 14146.15. (a) The CommuniCal Program Fund is hereby
33 created in the State Treasury. Notwithstanding Section 16305.7
34 of the Government Code, any interest and dividends earned on
35 deposits in the fund shall be retained in the fund for purposes
36 specified in subdivision (c).
- 37 (b) Moneys in the fund shall consist of any funds dedicated to
38 the CommuniCal program.

1 (c) Moneys in the fund shall, upon appropriation by the
2 Legislature to the department, be used solely to fund the
3 CommuniCal program.

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