

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE AUGUST 21, 2012

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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2392

Introduced by Assembly Member John A. Pérez
(Principal coauthor: Assembly Member Pan)

February 24, 2012

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 2392, 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, 2013,

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, 2013, the bill would require Spanish-language interpreters ~~to be required~~ 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, 2013, 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 CCMIIs 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 wages of 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

1 Government Code, Section 1259 of the Health and Safety Code,
2 and California civil rights law.

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

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

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

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

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

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

27 SEC. 2. It is the intent of the Legislature to do all of the
28 following:

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

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

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

39 (d) Facilitate accurate and timely communication between
40 ~~limited-English-proficient~~ *limited-English-proficient* patients and

1 their health care providers, which will improve quality of care,
2 reduce medical errors, increase patient understanding and
3 compliance with health diagnoses and care plans, and reduce the
4 cost of health care by eliminating waste, such as unnecessary tests
5 and other care.

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

8
9 CHAPTER 13. COMMUNICAL CERTIFIED MEDICAL
10 INTERPRETERS

11
12 Article 1. Certification and Registration of CommuniCal
13 Medical Interpreters

14
15 3599.50. (a) For purposes of this chapter, the following
16 definitions apply:

17 (1) "CommuniCal" means the Medi-Cal Patient-Centered
18 Communication program established pursuant to Article 4.6
19 (commencing with Section 14146) of Chapter 7 of Part 3 of
20 Division 9 of the Welfare and Institutions Code.

21 (2) "CommuniCal certified medical interpreter" or "CCMI"
22 means an interpreter who has been certified pursuant to Section
23 3599.51.

24 (3) "Certifying body" means the State Personnel Board.

25 (4) "Exam" means the CommuniCal Certified Medical
26 Interpreter Exam.

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

37 3599.51. (a) The certifying body shall select a nonprofit
38 organization to administer the exam. The nonprofit organization
39 shall have a statewide presence. A list of all interpreters who pass
40 the exam shall be maintained by the certifying body and shall be

1 known as the CommuniCal Certified Medical Interpreter Registry.
2 A CCMI is someone who has passed the exam, is listed on the
3 registry, and has been issued a certificate by the certifying body
4 attesting that the person is a CommuniCal Certified Medical
5 Interpreter.

6 (b) (1) Commencing July 1, 2013, in order to be eligible to
7 provide services under CommuniCal, Spanish-language interpreters
8 shall be required to pass the exam and be listed on the registry.

9 (2) For those languages of lesser diffusion or languages for
10 which a recognized medical interpreter exam has not been created,
11 the certifying body shall *determine*, by July 1, 2013, ~~determine~~,
12 with certified medical interpreters *and their exclusive*
13 *representatives*, appropriate testing, training, and experience
14 standards for interpreters to also be placed on the registry and listed
15 as CommuniCal Certified Medical Interpreters.

16 (3) In order to meet anticipated demand for services under
17 CommuniCal, all interpreters who have been previously otherwise
18 certified as medical interpreters by the certifying body within 30
19 days of the operative date of this chapter shall be immediately
20 listed on the registry.

21 3599.52. (a) The certifying body shall establish and charge
22 fees, which do not exceed the reasonable costs, for applicants to
23 take the exam. The certifying body shall establish and charge a
24 single fee that does not exceed the reasonable costs for certification
25 and listing on the registry. The purpose of these fees is to cover
26 the annual projected costs of carrying out this article. The fees
27 may be adjusted each fiscal year by a percent that is equal to or
28 less than the percent change in the California Necessities Index
29 prepared by the Commission on State Finance.

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

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

38 (1) The person is deceased.

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

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

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

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

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

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

23 3599.55. *The relationship of CCMIIs to all parties and*
24 *recipients of service is one of independent contractor, unless*
25 *otherwise specified by law.*

26 3599.56. *Only interpreters certified pursuant to this article*
27 *shall be represented by the union for purposes of collective*
28 *bargaining pursuant to Article 2 (commencing with Section 3610).*
29

30 *Article 2. Collective Bargaining for CommuniCal Certified*
31 *Medical Interpreters*
32

33 3610. (a) *CCMIIs shall have the right to form, join, and*
34 *participate in the activities of a labor organization of their own*
35 *choosing for the purpose of representation on all matters specified*
36 *in this section.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 3612. *Upon request by a labor organization that is signed by*
39 *20 percent of CCMIIs, the certifying body shall furnish to the labor*
40 *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 CCMIIs 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 CCMIIs 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
13 that less than a majority but at least 30 percent of CCMIIs desire
14 to be represented exclusively by that labor organization, and no
15 other 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
30 for the purpose of clarifying issues, obtaining stipulations,
31 executing a directed election order or consent election agreement,
32 and taking other actions to expedite the process. The labor
33 organization and the state shall engage in a good faith effort to
34 reach a consent election agreement stipulating the parties to
35 appear on the ballot, the form of the ballot, the CCMIIs eligible to
36 vote, the rules governing the election, and the date, time, and other
37 specifics of the mail ballot election. The state shall be represented
38 by the Department of Personnel Administration and the State
39 Department 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
5 percent of CCMI's in the state as of January 1 of the year the
6 application is made desire to be represented exclusively by the
7 intervening 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
31 the 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
39 be part of the bargaining unit and represented by the certified
40 labor 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*
8 *of Personnel Administration and the State Department of Health*
9 *Care 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*
18 *in 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 wages of members of the labor*
29 *organization the monthly amount of dues or service fees as certified*
30 *by an executive officer of the labor organization and shall transmit*
31 *the amount to the treasurer of the labor organization.*

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

1 amount of the fair share fee to the treasurer of the labor
2 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
10 good faith with representatives of a certified labor organization
11 and shall consider fully the proposals made by the labor
12 organization on behalf of CCMIs. “Meet and collectively bargain
13 in good faith” means that the state and its designated agent and
14 representatives of a certified labor organization shall have the
15 mutual obligation to collectively bargain within a reasonable
16 length of time in order to freely exchange information, opinions,
17 and proposals.

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

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

37 3625. Execution of a valid written agreement between the state
38 and the certified labor organization shall bar the filing of an
39 application or petition for certification of a majority representative
40 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.*

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

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

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

(b) Commencing July 1, 2013, CommuniCal shall offer medical interpreter services to Medi-Cal providers serving Medi-Cal beneficiaries on either a fee-for-service or managed care basis pursuant to this article. *The department shall adopt policies to prohibit duplicate payments to CCMIs and Medi-Cal MMCOs for beneficiaries enrolled in an MMCO.*

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

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

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

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

(a) Family meetings regarding medical care.

(b) Medical encounters involving difficult or agitated patients.

(c) Medical encounters to make treatment decisions.

(d) Obtaining informed consent involving review of documents.

(e) Any medical encounter that, in the physician’s judgment, requires in-person interpretation for the health, safety, or well-being 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 CCMIIs 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 CCMIIs, 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) CCMIIs 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 CCMIIs 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, CCMIIs are*
11 *not state employees. CCMIIs shall be independent contractors of*
12 *the state.*

13 (2) *For purposes of the CommuniCal program, CCMIIs 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 *CCMIIs and their exclusive representatives authorized under this*
18 *article or other applicable law.*

19 14146.135. (a) *The base reimbursement rate for CCMIIs shall*
20 *be determined through collective bargaining pursuant to Section*
21 *3610 of the Government Code and shall include the cost of the*
22 *broker.*

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

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

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

35 (b) Moneys in the fund shall consist of any funds dedicated to
36 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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