

GOVERNOR'S VETO
AB 1263 (John A. Pérez)
As Amended July 10, 2013
2/3 vote

ASSEMBLY: 55-23 (May 29, 2013) SENATE: 25-9 (September 11, 2013)

ASSEMBLY: 53-24 (September 11, 2013)

Original Committee Reference: HEALTH

SUMMARY: Establishes the Medi-Cal Patient Centered Communication (CommuniCal) program at the Department of Health Care Services (DHCS) to provide and reimburse for certified medical interpretation services to limited English proficient (LEP) Medi-Cal enrollees. Establishes a certification process and registry of CommuniCal medical interpreters (CCMI) at DHCS and grants collective bargaining rights with the state.

The Senate amendments:

- 1) Revise the certifying body to be DHCS instead of the California Department of Human Resources (CalHR).
- 2) Require DHCS to establish a Community Advisory Committee as specified
- 3) Require DHCS to, by September 1, 2014, in consultation with the Community Advisory Committee, approve an examination and certification process to test and certify the competency of medical interpreters and delete the requirement that CalHR select an examination within 120 days of implementation of this bill.
- 4) Require DHCS to develop, monitor, and evaluate interpreter competency, qualifications, training, certification, and continuing education requirements for medical interpreters.
- 5) Add the following options as a condition of certification, in addition to an examination administered by a nonprofit organization:
 - a) Pass an examination developed by a state-established language testing and certification program with a written and oral component that meets specified standards;
 - b) Achieve the designation of Certified Healthcare Interpreter from the Certification Commission for Healthcare Interpreters;
 - c) Achieve the designation of Certified Medical Interpreter from the National Board of Certification for Medical Interpreters; or,
 - d) Hold a current interpreter's certification under existing provisions.
- 6) Add a process for authorizing CommuniCal services to be provided by an interpreter of languages of lesser diffusion or languages for which a CCMI examination has not been

created.

- 7) Revise requirements for a provisional authorization that allow interpreters to be authorized prior to the development of the full testing and certification program at DHCS and require the person meet the full standards by December 31, 2016.
- 8) Delete the requirement that the base reimbursement rate be set at \$60 per hour and instead provide that it be subject to collective bargaining.
- 9) Make other technical and clarifying changes.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) One-time costs of \$1.4 million to develop program guidelines, seek necessary federal approvals, and develop billing systems (50% General Fund (GF), 50% federal funds).
- 2) One-time costs of about \$50,000 to develop regulations relating to collective bargaining of translators by the Public Employment Relations Board (GF).
- 3) One-time costs of about \$90,000 and ongoing costs of about \$50,000 to oversee an election by translators to choose a collective bargaining agent (GF).
- 4) Periodic costs up to \$1 million for negotiating a memorandum of understanding with the established bargaining unit and overseeing the implementation by CalHR (GF).
- 5) Ongoing costs of about \$30 million per year to provide translation services in fee-for-service Medi-Cal (GF and federal funds).
- 6) Unknown costs in Medi-Cal managed care (GF and federal funds). Under current law, health plans are required to provide interpretation services, including managed care plans that contract with DHCS. It is unclear whether the bill's requirement to provide "certified medical interpretation services" at reimbursement rates subject to collective bargaining would increase costs for translation services, above the costs already being incurred.
- 7) The federal financial participation rate for the costs above may vary. For interpretive services provided to children and their family members, the state can claim a 75% federal financial participation rate. However, those costs are only eligible for a 75% federal cost share if they are billed as administrative costs (as opposed to benefits). For childless adults, the rate is generally 50%.

COMMENTS: According to the author, this bill is to establish a program to provide and reimburse for medical interpretation services to LEP Medi-Cal enrollees and to allow for collective bargaining for certified medical interpreters. The author cites data that show more than 40% of Californians speak a language other than English at home. In addition, almost seven million Californians are estimated to speak English "less than very well." Other research finds that language barriers can contribute to inadequate patient evaluation and diagnosis, lack of appropriate and/or timely treatment, or other medical errors that can jeopardize patient safety and lead to unnecessary procedures and costs. The author argues that today, language assistance in

medical settings is provided by trained or untrained staff or in an informal manner by family members or friends. In conclusion, the author states that California has an opportunity to develop a more comprehensive language assistance program by seeking additional federal funding for medical interpreter services in the Medi-Cal program.

Supporters such as Interpreting for California, The Low-Income Self-Help Center and Catholic Charities of Santa Clara County, write that this bill address the need for interpreters in Medi-Cal as the state will experience greater demand when 35% of the newly eligible enrollees speak English less than well. These supporters state that this bill will make it possible for the 2.5 million Medi-Cal enrollees who are LEP to communicate with healthcare providers, reducing medical errors and improving the standard of care by providing access to trained interpreters. Other supporters such as The American Federation of State, County and Municipal Employees, AFL-CIO and Somos Mayfair writes in support that, with the expansion of Medi-Cal and the implementation of the California Health Benefit Exchange under federal health care reform, the state has a clear opportunity to create an interpreters' program that will allow patients and providers to clearly communicate with each other. According to these supporters, in 2003 California passed the strongest law in the country requiring all private health plans to provide language assistance services to LEP individuals beginning in 2009. However, the supporters assert, patient interpretation needs remain unmet despite these laws and explicit policy directives to Medi-Cal managed care plans to provide interpreter services. According to the Transnational Institute for Grassroots Research and Action (TIGRA), LEP Californians frequently reported problems related to their experience of care. TIGRA asserts that LEP enrollees of the state's seven largest health plans were more likely than English proficient enrollees to report problems understanding their physician (1.2% versus 2.6%) and believe they would have received better care if they were of a different race/ethnicity (14% versus 3.2%).

GOVERNOR'S VETO MESSAGE:

"The bill would require the Department of Health Care Services to establish the CommuniCal program to certify and restructure current interpreter services provided under Medi-Cal.

"California has embarked on an unprecedented expansion to add more than a million people to our Medi-Cal program. Given the challenges and the many unknowns the state faces in this endeavor, I don't believe it would be wise to introduce yet another complex element."

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