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NO. 57445-1-I, 57446-9-I, & 57447-7-I

COURT OF APPEALS, DIVISION I
STATE OF WASHINGTON

HAJRUDIN KUSTURA, GORDANA LUKIĆ, AND MAIDA MEMIŠEVIĆ,

Consolidated Appellants,

v.

DEPARTMENT OF LABOR & INDUSTRIES,

Respondent.

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APPELLANTS' RESPONSE TO
DEPARTMENT'S THREE ANSWERS TO AMICUS BRIEFING

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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. ARGUMENT	1
A. THE DEPARTMENT MISREPRESENTS THE FACTS AND RECORD...	1
1. DLI Issued Many Orders before Counsel Appeared.....	1
2. Appellants Sought Medical & Language Assistance Benefits.....	2
3. Ms. Lukić and Ms. Memišević Raised Equity Below.....	2
B. DEPARTMENT’S NEW CASES DO NOT SUPPORT ITS POSITION...	3
1. The Department Cites Cases which Support Appellants...	3
2. The Department Cites Cases of No Authority in Washington.....	4
3. The Department Fails to Disclose Cited Cases Not or No Longer Authoritative.....	4
C. THE DEPARTMENT IGNORES STATUTORY INTENT AND APPLIES INCORRECT RULES OF CONSTRUCTION.....	5
D. RCW 2.43 MANDATES USE OF INTERPRETERS IN “LEGAL PROCEEDINGS”	6
E. PROPERLY CONSTRUED, RCW 2.43 COVERS STATE AGENCY PROCEEDINGS	9
1. Interpreters are Required for LEP persons at “Legal Proceedings.”.....	9

2. Agency Investigations are “Legal Proceedings.”	10
3. The Department Conducts “Legal Proceedings”	10
4. Department Claims Processing is “Quasi-Judicial”	11
5. Commas Do Not Determine if Interpreters are Required...	12
6. The Department Minimizes its Role in Initiating Proceedings.....	13
7. “Legal Proceedings” Do Not Start with Appeals.....	14
8. Focusing on Who Initiates Proceedings is a Red Herring..	14
9. The Department has No Undue Interpreter Burden.....	15
F. RCW 2.43 CONTROLS INTERPRETER USE UNDER WAC 263-12- 097.....	16
G. THE DEPARTMENT EXAGGERATES THE IMPACT OF AMICUS ANALYSIS.....	17
H. DEPARTMENT PUBLICATIONS RECOGNIZE ITS OBLIGATION TO PROVIDE INTERPRETERS AT NO COST TO LEP WORKERS.....	17
I. THE DEPARTMENT FAILED TO ASSESS APPELLANTS’ INDIGENCY.....	18
J. APPELLANTS HAD A RIGHT TO CONFER WITH COUNSEL THROUGH THE BOARD-PROVIDED INTERPRETER.....	18
III. CONCLUSION	20

APPENDICES

APPENDIX A

New Cases Cited in Department Answers to Amicus Briefing

APPENDIX B

Washington Courts LEP Plan 2007

APPENDIX C

Department Form
Report of Industrial Injury/Occupational Disease
[also called Report of Accident]

APPENDIX D

Department Time-Loss Certification Form

APPENDIX E

Department Worker Verification Form

APPENDIX F

Department Web Pages on Interpreters

APPENDIX G

Department Worker's Guide to Industrial Insurance Benefits

APPENDIX H

Department Insurance Services Policy Manual Claims
Administration
Task 10.30-A – Authorizing & Paying for Interpreter Services
Task 10.30-B – Paying for Interpretive Services
& Letter Authorizing Interpreter Services

TABLE OF AUTHORITIES

<u>Washington Cases</u>	<u>Page</u>
<i>Brand v. Department of Labor & Industries</i> , 139 Wn.2d 659, 989 P.2d 111(1999).....	19
<i>Buffelen Woodworking v. Cook</i> , 28 Wn.App. 501, 615 P.2d 704 (1981).....	4
<i>Burns v. City of Seattle</i> , 164 P.3d 475 (August 2, 2007).....	7
<i>Cockle v. Department of Labor & Industries</i> , 142 Wn.2d 801, 16 P.3d 583 (2000).....	4
<i>Cobra Roofing v. Department of Labor & Industries</i> , 122 Wn.App. 402, 97 P.3d 17 (2004).....	12
<i>Cobra Roofing v. Department of Labor & Industries</i> , 154 Wn.2d 1001, 113 P.3d 481 (2004).....	12
<i>Cobra Roofing v. Department of Labor & Industries</i> , 1157 Wn.2d 90, 135 P.3d 913 (2004).....	12
<i>Davidson v. Thomas</i> , 55 Wn.App. 794, 780 P.2d 910 (1989).....	12
<i>In re Dependency of Grove</i> , 127 Wn.2d 221, 897 P.2d 1252 (1995).....	18-19
<i>McDonald v. Department of Labor & Industries</i> , 104 Wn.App. 617, 17 P.3d 1195 (2001).....	14
<i>Northlake Marine Works v. Seattle</i> , 134 Wn.App. 272, 127 P.3d 726 (2006).....	12

<i>Pentagram Corp. v. Seattle</i> , 28 Wn.App. 219, 622 P.2d 892 (1981).....	12
<i>Rettkowski v. Department of Ecology</i> , 122 Wn.2d 219, 858 P.2d 232 (1993).....	16
<i>Rogstad v. Rogstad</i> , 74 Wn.2d 736, 446 P.2d 340 (1968).....	16, 18
<i>Roller v. Department of Labor & Industries</i> , 128 Wn.App. 922, 117 P.3d 385 (2006).....	12
<i>Seatoma Convalescent Center v. Department of Social and Health Services</i> , 82 Wn.App. 495, 919 P.2d (1996).....	18
<i>Sebastian v. Department of Labor & Industries</i> , 142 Wn.2d 280, 12 P.3d 594 (2000).....	5
<i>Silverstreak, Inc. v. Department of Labor & Industries</i> , 159 Wn.2d 868, 154 P.3d 891, 899 (2007).....	6
<i>State v. Gonzales-Morales</i> , 138 Wn.2d 374, 979 P.2d (1999).....	6
<i>State v. Marintorres</i> , 93 Wn.App. 442, 969 P.2d 501 (1999).....	6, 11, 14
<i>State v. Smith</i> , 97 Wn.2d 856, 651 P.2d 207 (1982).....	10-11
<i>State v. Thompson</i> , 95 Wn.2d 753, 630 P.2d 925 (1981).....	16
<i>Stertz v. Industrial Insurance Commission</i> , 91 Wash. 588, 158 P. 256 (1916).....	4
<i>Tingey v. Haisch</i> , 159 Wn.2d 652, 152 P.3d 1010 (2007).....	7

<i>Whatcom County v. City of Bellingham</i> , 128 Wn.2d 537, 909 P.2d 1303 (1996).....	8
<i>Willoughby v. Department of Labor & Industries</i> , 147 Wn.2d 725, 57 P.3d 611 (2002).....	16

Washington Statutes:

RCW 2.42.....	11
RCW 2.42.120(1).....	11
RCW 2.42.120(4).....	11
RCW 2.43.....	<i>passim</i>
RCW 2.43.010.....	5-9, 14
RCW 2.43.030(1).....	19
RCW 2.43.020(3).....	7, 9, 13
RCW 2.43.030.....	7, 9
RCW 2.43.030(1)(b).....	7
RCW 2.43.030(1)(c).....	6
RCW 2.43.040(3).....	18
RCW 2.43.060.....	8
RCW 9A.56.....	10
RCW 9A.72.....	10

RCW 9A.72.030.....	11
RCW 34.05.010(1).....	20
RCW 34.05.010(3).....	20
RCW 34.5.010(11)(a).....	20
RCW 34.05.048(2).....	20
RCW 43.22.331.....	10
RCW 49.17.130.....	10
RCW 49.17.180.....	10
RCW 49.17.190.....	10
RCW 51.....	5, 17
RCW 51.04.010.....	5
RCW 51.04.080.....	19
RCW 51.12.010.....	5
RCW 51.28.030.....	6
RCW 51.36.010.....	6
RCW 51.48.....	11
RCW 51.48.017.....	10
RCW 51.48.020.....	10
RCW 51.48.025.....	10

RCW 51.48.080.....	10
RCW 51.48.105.....	10
RCW 51.48.250.....	10
RCW 51.48.260.....	10
RCW 51.48.270.....	10

Washington Court Rules:

ER 801(d)(1)(i).....	10
GR 11.3(d).....	19

Washington Regulations:

WAC 263-12-020.....	19
WAC 263-12-097.....	16
WAC 263-12-125.....	19

United States Supreme Court & Federal Cases:

<i>Abdullah v. Immigration and Naturalization Service,</i> 184 F.3d 158 (2 nd Cir. 1999).....	5
<i>Almendares v. Palmer,</i> 284 F.Supp.2d 799 (N.D. Ohio 2003)	3
<i>Augustin v. Sava,</i> 735 F.2d 32 (1984).....	3

<i>Davis v. Washington</i> , 541 U.S. ___, 165 L.Ed.2d 224, 126 S.Ct. 2266 (2002).....	10-11
<i>Kugo v. Ashcroft</i> , 391 F.3d 856 (7 th Cir. 2004).....	5
<i>Nazarova v. Immigration and Naturalization Service</i> , 171 F.3d 478 (7 th Cir. 2006).....	3
<i>United States v. Lim</i> , 794 F.2d 469 (9 th Cir. 1986).....	3

Cases from Other States:

<i>Alfonso v. Board of Review</i> , 444 A.2d 1075 (NJ 1982).....	4
<i>Lander v. Industrial Commission of Utah</i> , 894 P.2d 552 (1995).....	4
<i>Rivera v. Board of Review, New Jersey Department of Labor</i> , 127 N.J. 578, 606 A.2d 1087 (1992).....	4
<i>Valdez v. New York City Housing Authority</i> , 783 F. Supp. 109 (S.D.N.Y. 1991).....	5
<i>Yellen v. Baez</i> , 676 N.Y.S.2d 724 (NYCity Civ. Ct. 1997).....	5

Other Authorities:

Adelson, <i>Title VI, Limited English Proficiency and the Public Lawyer</i> , ABAJ 15:1 (Winter 2007).....	4
Washington State LEP Plan, Office of the Administrator of the Courts, 2007.....	9

Other Appeals Before Division I:

Meštrovac v. Department of Labor & Industries,
COA No. 582000-3-I..... 13

Department Publications:

Insurance Services Policy Manual, Claims Administration
Task 10.30-A, (Effective 1/1/99)
Authorizing and Paying for Interpreter Services..... 15

Insurance Services Policy Manual,
Task 10.30-B (Effective 9/1/98)
Paying for Interpretive Services..... 15

Management Update August 2007
Interpreter and Translation Services to Workers..... 18

Provider Bulletin 05-04 on Interpreter Services..... 15, 16

Report of Industrial Injury/Occupational Disease Form
[Report of Accident]..... 11, 13

Time-Loss Certification Form..... 11

Web Pages on Interpreters..... 16, 18

Worker Verification Form..... 11

Worker's Guide to Industrial Insurance Benefits..... 19

I. INTRODUCTION

Accepting Amicus briefing and 60 pages of Department answers, the Court granted appellants leave to respond in 20 pages. This is insufficient to address all the new distortions of the facts and record, 70 new cases cited [**Appendix A**], and new theories raised in the Department's answers. This brief tries to address what it can of these new misrepresentations, cases and theories in 20 pages.

II. ARGUMENT

A. The Department Misrepresents Both the Facts & the Record.

1. DLI Issued Many Orders before Counsel Appeared.

The Department asserts only 1 order on appeal was sent before appellants had counsel. Before they had counsel, the Department sent Mr. Kustura 22 orders, Ms. Lukić 5 orders, and Ms. Memišević 14 orders. KCBRA 434-7, LCBRA 174-6, MCBRA 108-109. Ms. Lukić protested her wage order; it was modified including undervalued health benefits. She requested recalculation, the Department refused and she appealed within 60 days. Ms. Memišević appealed all within 60 days of hiring counsel. The Board and Superior Court correctly found Mr. Kustura's appeals timely but erroneously found Ms. Lukić's and Ms. Memišević's untimely, prejudicing their rights under the Industrial Insurance Act.

2. Appellants Sought Medical & Language Assistance Benefits.

The Department in accurately asserts that appellants seek only financial benefits, concluding they have no due process protection. Appellants also sought medical care and interpreter services on appeal. KCBRA 264-6; LCBRA 533-7, 509-23; MCBRA. 582-5, 636-9, 657-661.

3. Ms. Lukić and Ms. Memišević Raised Equity Below.

The Department asserts Ms. Lukić and Ms. Memišević waived the argument that their appeals were timely under equity by not raising it at Superior Court. The Superior Court's Memorandum Opinion shows the falsity of this assertion at pp. 3-4, stating at page 3:

As a matter of equity, claimants cite to the line of cases in which unusual circumstances have led to the conclusion that strict application of the claim preclusion rule would be unjust. See Rodriguez, Ames [full citations omitted].

Rather than being dilatory, appellants were vigilant but unable to discover undervaluation hidden due to Department and employer "unclean hands." Their appeals should be found timely because the Department sent orders in English knowing they would not be understood and because the wage calculations incorporated undervalued health premiums, based on employer misrepresentations of health benefit values.¹

¹ Monthly undervaluation is: Kustura \$94.80, Lukić \$25.02, Memišević \$21.94.

B. Department's New Cases Do Not Support Its Position.

1. The Department Cites Cases which Support Appellants.

Department cites *Almendares v. Palmer*, 284 F.Supp.2d 799 (N.D. Ohio 2003) as holding no remedy is available under EO 13166, based on denial of summary judgment under Title VI where the Court said:

The existence of the [federal] mandate and the defendants' knowing and long term noncompliance shows, arguably, an intent to treat Spanish-speaking recipients of food stamps differently than English-speaking recipients.

A consent decree ensued with attorney fees correcting the LEP problem.²

The Department cites pre-EO 13166 cases *US v. Lim*, 794 F.2d 469 (9th Cir. 1986), *Augustin v. Sava*, 735 F.2d 32 (1984), finding LEP persons have a right to a court-appointed interpreter to communicate with counsel. In *Lim*, the Court affirmed, finding the trial court provided a court-appointed interpreter for at trial *and to prepare for trial*. In *Augustin*, the Court found interpreter services provided at trial inadequate, because the LEP person was entitled to interpreter services to consult with counsel to prepare for hearing. *Nazarova v. INS*, 171 F.3d 478 (7th Cir. 2006) also held LEP persons have a right to an interpreter, finding no prejudice as Nazarova knew when her hearing was scheduled and arrived late. All these cases support appellants here – not the Department.

2. The Department Cites Cases of No Authority in Washington.

The Department cites cases ignoring our Supreme Court's recognition that our Act is unique and resorting to such cases is "useless." *Stertz v. Ind'l Ins. Com'n*, 91 Wash. 588, 604, 158 P. 256 (1916), *Cockle v. Dep't Labor & Ind.*, 142 Wn.2d 801, 815, 16 P.2d 583 (2000). It cites *Lander v. Ind'l Com'n of Utah*, 894 P.2d 552(1995) for the proposition that workers have no due process protection, ignoring *Buffelen Woodworking v. Cook*, 28 Wn.App. 501, 615 P.2d 704 (1981) where this court held workers have due process rights in even potential benefits under our Act.

3. The Department Cites Cases Not or No Longer Authoritative.

The Department failed to advise this Court that *Alfonso v. Board of Review*, 444 A.2d 1075 (NJ 1982)³ has not been authoritative since 1986 when the New Jersey Legislature adopted legislation requiring notices be in the LEP person's language.⁴ In *Rivera v. Board of Review*, 127 NJ 578, 606 A.2d 1087 (1992), the New Jersey Supreme Court disapproved of *Alfonso*, finding a "late" appeal timely when an LEP worker received an English-only notice. Thus, since 1986, the law of New Jersey supports appellants, not the Department. Thus, under the state law

² Adelson, *Title VI, Limited English Proficiency and the Public Lawyer*, ABAJ 15(1) (Winter 2007) on line at <http://spa.american.edu/justice/documents/2141.pdf>.

³ The 5 to 4 decision had a well-reasoned dissent later approved in *Rivera*.

⁴ As Washington law requires for DSHS & ESD notices as briefed earlier.

relied on by the Department, Ms. Lukić's and Ms. Memišević's appeals were timely. The Department also cited a number of cases either decided before EO 13166 and/or not addressing Title VI, RCW 2.43, or RCW 51.⁵

C. The Department Ignores Statutory Intent & Applies Incorrect Rules of Construction.

These appeals revolve around LEP workers' rights to benefits and language assistance under the Industrial Insurance Act Title RCW 51 and the LEP Interpreter Act RCW Chapter 2.43. The Department fails to apply the Legislature's directives in RCW 51.04.010 to provide "sure and certain relief" for injured workers, in RCW 51.12.010 to construe the Act liberally in favor of injured workers to minimize their suffering and economic loss from industrial injury, and in RCW 2.43.010 to protect LEP rights by providing interpreters to assist them in legal proceedings.

Both Acts are patently remedial, the former protecting workers and the latter protecting LEP persons. The Department fails both to mention and to apply the time-honored rule that remedial statutes and regulations adopted thereunder must be construed broadly to foster their beneficial purposes. *Sebastian v. Dep't of Labor & Industries*, 142 Wn.2d 280, 12 P.3d 594 (2000). These statutes and regulations must be liberally

⁵ Including *Abdullah v. INS*, 184 F.3d 158 (2nd Cir. 1999); *Kuqo v. Ashcroft*, 391 F.3d 856 (7th Cir. 2004); *Valdez v. NY City Housing Authority*, 783 F.Supp. 109 (S.D.N.Y. 1991); *Yellen v. Baez*, 676 N.Y.S.2d 724 (NY City Civ. Ct. 1997).

construed to favor the statutory beneficiaries -- LEP injured workers. Exemptions from such remedial statutes are to be narrowly construed consistent with the statutory spirit. *Silverstreak v. Dep't of Labor & Industries*, 159 Wn.2d 868, 154 P.3d 891, 899 (2007).

First, the Department asserts appellants have no rights needing protection only "economic rights" ignoring their rights under RCW 51.12.010 to sure and certain relief and RCW 51.36.010 to prompt and necessary medical care. Thus, the Department argues it is relieved of the burden to provide language accommodations. This argument ignores important and misconstrues other authority on RCW 2.43. Department suggests *State v. Gonzales-Morales*, 138 Wn.2d 374, 979 P.2d (1999) holds RCW 2.43's only purpose is to protect constitutional rights. RCW 2.43.010 is very clear that appointment of a certified or qualified interpreter is required to protect *all rights* of LEP persons.

In *State v. Marintorres*, 93 Wn.App. 442, 969 P.2d 501 (1999), the Court applied equal protection analysis finding no rational basis to distinguish between the state's obligation to provide free interpreters for those with speech/hearing impairments and with LEP status.

D. RCW 2.43 Mandates Interpreters in "Legal Proceedings."

The Department claim that RCW 2.43 does not create a right to an interpreter contradicts the statute's plain language. RCW 2.43.030(1)(c)

unequivocally requires an interpreter be appointed in every legal proceeding involving an LEP person, stating:

Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority **shall** appoint a qualified interpreter. [Emphasis added]

RCW 2.43.030(1)(b) requires that the appointing authority *use* the services of a certified interpreter if an LEP person is a party to or is compelled to appear in a legal proceeding, except where a certified interpreter or certification is unavailable. RCW 2.43.030 has no provision authorizing any state agency not to appoint an interpreter for an LEP person in a legal proceeding. “[I]f the state’s meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent.” *Tingey v. Haisch*, 159 Wn.2d 652, 657, 152 P.3d 1010 (2007). If any LEP person is involved in any legal proceeding under RCW 2.43.020(3), the state agency *must* appoint a certified/qualified interpreter.

The Department’s construction of RCW 2.43 also ignores the context created by each provision of the chapter. “Plain meaning is discerned from viewing the words of a particular provision in the context of the statute in which they are found, together with related statutory provisions, and the statutory scheme as a whole.” *Burns v. City of Seattle*, 164 P.3d 475, 481 (August 2, 2007). RCW 2.43.010 states the legislature’s purpose -- to “provide for the *use* and procedure for the

appointment of such interpreters.” (Emphasis added). Under the Department’s construction, the word “use” becomes meaningless, as the statute only regulates procedures for appointing interpreters, but does not mandate when interpreters shall be used. “We have held, time and again, that “[s]tatutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous.” *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996).

The statute’s declaration of legislative purpose specifically states its intent to “secure the rights, constitutional *or otherwise*” of LEP persons “who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.” RCW 2.43.010 (Emphasis added). The Department argues an interpreter is only required where the highest level of constitutional protection applies, limiting interpreters to a narrow class of cases, primarily criminal. This argument ignores the legislative intent to protect fully all LEP persons’ rights by providing qualified or certified interpreters.

The Department’s construction further renders absurd RCW 2.43.060’s narrowly limited waiver of interpreter services. If, as the Department contends, RCW 2.43 provides for no broader appointment of interpreters than already constitutionally required, there would be no

reason for the Legislature to adopt RCW 2.43 or to provide for a limited waiver when the constitutional law on waiver is well-developed. Further, RCW 2.43.020(3)'s broad definition of "legal proceeding" is meaningless if that definition has no effect on when interpreters must be provided.

The statement of legislative purpose, the broad definition of "legal proceeding," and the strict limits on waiver all underscore that the plain meaning of RCW 2.43.030 is to create a right to an interpreter for any LEP person involved in any legal proceeding in Washington.

E. Properly Construed, RCW 2.43 Covers State Agency Proceedings.

1. Interpreters are Required for LEP Persons for Legal Proceedings.

The Washington State LEP Plan⁶ recognizes interpreters are required for LEP persons in "all legal proceedings," stating at pages 5-6:

Under the Washington State interpreter statute, RCW 2.43.010, it is the policy of the court to make a qualified interpreter available in all legal proceedings in which an LEP person is involved. . . . Washington's interpreter statute provides that the court, governmental body or agency initiating the proceeding is to pay for the interpreter in all legal proceedings in which the LEP individual is compelled to appear by the court, governmental body, or agency.

Thus, whether the Department conducts "legal proceedings" determines workers' interpreter rights even under its own reading of RCW 2.43.

⁶ July 2007, Office of the Administrator of the Courts, **Appendix B**. The Washington State LEP Plan likewise recognizes the responsibility to provide language assistance outside "court proceedings" at pages 8-9.

2. Agency Investigations are “Legal Proceedings.”

The Courts recognize that statements under oath to a government agency are “testimonial” and made as part of a legal proceeding. *State v. Smith*, 97 Wn.2d 856, 651 P.2d 207 (1982); *Davis v. Washington*, 541 U.S. ___, 165 L.Ed.2d 224, 126 S.Ct. 2266 (2006). Both cases considered statements to an investigating government agency and found that statements under oath were “testimonial” and thus admissible in later trials as statements made in “other proceedings” of the legal proceedings listed in ER 801(d)(i). The Legislature intended nothing less broad in RCW 2.43 where an agency “proceeding” encompasses the Department’s investigation of appellants’ injuries and adjudication of their benefits based on their statements made “under civil and criminal penalty.”

3. The Department Conducts “Legal Proceedings.”

The Department starts its statutorily-required investigation⁷ into an injury, by providing a Report of Industrial Injury form on which the worker must provide information subject to civil and criminal penalty. To

⁷ The Department may use information from investigation of a work place injury to: report on fraud as required under RCW 43.22.331; issue WSHA citations under RCW 49.17.130; charge civil or criminal WISHA violations under RCW 49.17.180 or RCW 49.17.190; act on claims filed under RCW 51.28.030; charge false reporting under RCW 51.48.020; charge retaliation under RCW 51.48.025; penalize rule violation under RCW 51.48.080; penalize self-insured employers under RCW 51.48.017; penalize employers for failing to cover workers under RCW 51.48.105; penalize workers under RCW 51.48.250 and RCW 51.48.260; order workers to reimburse money and pay interest under RCW 51.48.250 & .260; or refer workers for criminal prosecution under RCW 51.48.270, RCW 9A.56, and/or RCW 9A.72.

get time loss benefits, the worker must provide data on a Department Time Loss Certification form subject to civil and criminal penalty. Periodically while on time loss, the worker must provide more information under civil and criminal penalty on the Department Worker Verification Form. See **Appendices C, D & E.**⁸ Potential consequences for the worker include Class C felony conviction, 5 years' imprisonment, \$10,000 fine under RCW 9A.72.030, and civil liability and penalties under RCW 51.48.

Despite its claim to the contrary, under *Smith* and *Davis*, the Department's claim investigation is a "legal proceeding."

4. Department Claims Processing is "Quasi-Judicial."

The Court in *Marintorres, supra*, construed RCW 2.43 and RCW 2.42, saying that the Legislature:

intended the same beneficial assistance for persons who could not communicate effectively in English due to non-English speaking background as for those with speech or hearing defects.

Under *Marintorres*, interpreters are required for LEP persons when required by RCW 2.42 which provides interpreters for LEP persons at any stage of a "quasi-judicial proceeding." RCW 2.42.120(1). RCW 2.42.120(4) recognizes agency investigations are legal proceedings where

⁸ None of these forms is available in Bosnian, necessitating interpreter services for a Bosnian fluent worker to provide the information under oath the Department requires.

interpreters are provided if the person is a witness, suspect or victim.⁹

Department proceedings are “quasi-judicial” when they determine individual rights under the Act.¹⁰ Claim “adjudicators” issue “final and interlocutory orders,” make “judgments” and “decisions” on claims.”¹¹

MRP 12/11, 42. Thus interpreters are required for all phases of

Department investigations into and adjudication of LEP work injuries.

5. Commas Do Not Determine if Interpreters are Required.

The Department asserts that whether its claims adjudication process is a “legal proceeding” is determined by comma placement in

⁹ RCW 2.42.120 (4) states: “If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. . . . No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.” The Department is Washington’s enforcement agency for the Industrial Insurance Act, the Crime Victim’s Compensation Act, and WISHA.

¹⁰ See e.g. *Davidson v. Thomas*, 55 Wn.App. 794, 780 P.2d 910 (1989); *Pentagram Corp. v. Seattle*, 28 Wn.App. 219, 622 P.2d 892 (1981); *Northlake Marine Works v. Seattle*, 134 Wn.App. 272, 127 P.3d 726 (2006). Due to the Department’s quasi-judicial functions and expertise, the Court accords weight, but does not defer completely, to its interpretation of the Act. *Cobra Roofing v. DLI*, 122 Wn.App. 402, 409, 97 P.3d 17 (2004) rev. granted *Cobra Roofing v. DLI*, 154 Wn2d 1001, 113 P.3d 481 (2004), aff’d on other grounds *Cobra Roofing v. DLI*, 157 Wn.2d 90, 135 P.3e 913 (2006); *Roller v. DLI*, 128 Wn.App. 922, 117 P.3d 385 (2006).

Because the Department determined appellants’ individual benefits it acted in a quasi-judicial process. Thus interpreter services are proper under RCW 2.43.

¹¹ Victoria Kennedy, Department designee, testified “worker’s compensation adjudicators” decide if claims are allowed or disallowed, if benefits requested by worker or physician are provided, the amount of and if wage replacement benefits are paid based on information from worker, physician and employer. MRP 12/11, 42-5. She testified the Department must communicate with the worker and has translator services to do so. MRP 12/11, 36-7. The Department’s goal is “to communicate critical decisions” in a way “that the worker can understand.” MRP 12/11, 41.

RCW 2.43.020(3). The Department argues that the commas require finding its claims process is not a legal proceeding by parsing the statute into subsections not placed there by the legislature. As explained in the proposed answer to this argument in the *Meštrovac*,¹² the Court should interpret the statute liberally to effect its remedial purpose and construe “legal proceedings” to include Department’s claim adjudications.

6. The Department Minimizes its Role in Initiating Proceedings.

Conceding it contacts workers when notified of their injuries, the Department minimizes its role and responsibility in initiating proceedings. It argues it does not “initiate” the claims adjudication process but instead merely informs the worker of rights under the Act.¹³ The court need only examine Department forms to see that it does far more than merely provide information on worker rights. The Report of Industrial Injury Instructions [**Appendix C**] shows plainly that the Department initiates the claims adjudication process. The worker is given in English-only a statement of rights and a set of steps to be followed, under the heading “Worker Instructions.” These instructions contain several directives, *e.g.*, delay paying medical bills until told to do so by the Department, inform the Department if there was more than one job when injured, notify the

¹² *Meštrovac v. DLI*, COA No. 58200-3-I also to be argued on November 19, 2007.

Department of marital status, etc. The Report itself requires the worker to provide detailed information under penalty of perjury. By making such demands on the worker, the Department initiates the adjudication process, an obvious “legal proceeding.”

7. “Legal Proceedings” Do Not Start with Appeals.

The Department argues its process of ruling on claims constitutes neither a “hearing” nor a “legal proceeding” because its orders are “irrelevant” to Board appeals.¹⁴ How issuance of orders extinguishing worker rights can be anything but a “legal proceeding” is hard to fathom, especially when the only avenue of relief is an “appeal” which the Department admits is a “legal proceeding.” Quite simply, “legal proceedings” do not, as the Department claims, start only upon appeal.

8. Focusing on Who Initiates Proceedings is a Red Herring.

Who initiates proceedings is irrelevant under *Marintorres, supra*, because interpreters are provided under RCW 2.42.120(1) regardless of how proceedings are initiated. In addressing the arguments that Board proceedings are separate from the Department, this fact is ignored.

¹³ The Department failed to inform appellants of any rights in any language they understood. MRP 12/11, 75-7, 82-3, 89-91; LRP 9/29 24-6, 30, 45-6, 58.

¹⁴ The Department cites *McDonald v. Department of Labor & Industries*, 104 Wn.App. 617, 623, 17 P.3d 1195 (2001), which in reality holds that the Department’s *reasoning process* in reopening and closing a claim was not relevant to a jury’s determination of whether the Board ruled correctly on the same issue. It did not rule that Department

Simply put, an appeal is but one a stage of a proceeding, neither the first stage of proceedings nor an entirely new and distinct proceeding. That being the case, the Board cannot avoid its obligations under RCW 2.43 by asserting that appeals before it are new proceedings initiated by the worker. The appellate process is one of many stages in proceedings to establish the worker's benefits. As shown earlier, this proceeding is originally initiated by the Department when informed of a worker injury.

If this Court believes Board proceedings are separate and who initiates determines application of RCW 2.43, the Board here initiated proceedings by issuing an order accepting the appeal after first allowing the Department time to resolve the matter without appellate proceedings.¹⁵

9. The Department has No Undue Interpreter Burden.

The Department suggests that its being obliged to "appoint" interpreters was both outside the Legislature's intent and too burdensome. However, the Department omits mention that it has for years routinely arranged and paid interpreters from the Medical Aid Fund as benefits under the Act.¹⁶ Its claim that appointing and paying interpreters is too

actions were irrelevant at the Board and thus Department actions did not constitute "legal proceedings."

¹⁵ KCBRA 273-5, 405-7, 457-9, 470-3, 482-3; LCBRA 162-4; MCBRA 69, 71-3, 640-1.

¹⁶ For claim adjudicators phone contacts, medical care, IMEs, & voc evaluations, see PB 05-04 p. 8, 2007 Management Update, Department Claims Manual 10.30-A & 10.30-B, **Appendix H**, and Victoria Kennedy testimony MRP 12/11 pp. 22-34, MEX 23-25.

burdensome¹⁷ is likewise transparently incorrect as the Department's own website notes:

Interpreting for an injured worker or a crime victim is covered by L&I and does not require prior authorization. The doctor or vocational provider can determine if the patient needs communication assistance.¹⁸

Further, the Department website has already an established list of Bosnian interpreters¹⁹ and both paper and electronic billing systems.²⁰

F. RCW 2.43 Controls Interpreter Use under WAC 263-12-097.

The Department notes that WAC 263-12-097 states the IAJ "may" appoint an interpreter and argues, therefore, appointment of interpreters is discretionary, failing to mention that WAC 263-12-097 refers to RCW 2.43 which makes qualified/certified interpreter appointment mandatory.

An administrative agency cannot provide less protection than required by statute by adopting a narrower regulation. It may only "do that which it is authorized to do by the Legislature." *State v. Thompson*, 95 Wn.2d 753, 759, 630 P.2d 925 (1981); *Rettkowski v. Dept. of Ecology*, 122 Wn.2d 219, 226, 858 P.2d 232 (1993). There being no grant of power

¹⁷ Administrative burden has been rejected as a justification for limiting benefits under the Act. *Willoughby v. DLI*, 147 Wn.2d 725, 57 P.3d 611 (2002) previously briefed.

¹⁸ See <http://www.lni.wa.gov/ClaimsIns/Providers/Manage/Interpreters/default.asp> attached as Appendix F, cognizable as legislative fact under *Rogstad*, *infra*, fn. 21.

¹⁹ See Appendix F. Go to <https://fortress.wa.gov/lni/ils/ILSStart.aspx#GridBookmark>, inserting Bosnian. Interpreters are also listed under Croatian and Serbian.

²⁰ <http://www.lni.wa.gov/ClaimsIns/Providers/Manage/Interpreters/bill.asp> attached in Appendix F. Accord PB 05-04, page 10.

in Title RCW 51 to the Department or the Board to limit, amend, or modify RCW 2.43 or any other Title in the Revised Code, neither may do so by adopting a policy or regulation conflicting with any statute.

G. The Department Exaggerates the Impact of Amicus Analysis.

The Department argues that under Amicus analysis, every communication by every government employee with every LEP person about anything at any time amounts to a “legal proceeding.” Hence, so the argument goes, Amicus’ analysis leads to an absurd result and must be rejected. The court should not be misled. The Department makes its “absurd result” argument relying on a definition that was not proposed by Amicus. After setting out the different definitions of “proceeding” found in Black’s Law Dictionary, WSTLA proposed the second definition -- “any procedural means for seeking redress from a tribunal or agency.” It is the Department’s argument which is absurd, rather than the results flowing from the definition actually proposed by WSTLA.

H. Department Publications Recognize Its Obligation to Provide Interpreters at No Cost to LEP Workers.

Department publications state its obligation to communicate with LEP workers in their own language or by interpreters. Its website states

no authorization is needed for interpreter benefits under the Act.²¹ See also *2007 Management Update* recognizing the Department's duty to communicate to LEP workers in their language. This policy is afforded substantial weight as long as consistent with the Act's intent. *Seatoma Conv. Ctr. v. DSHS*, 82 Wn.App. 495, 518, 919 P.2d 602 (1996).

I. The Department Failed to Assess Appellants' Indigency.

The Department concedes that indigents are entitled to interpreter services. Despite being required to do so by RCW 2.43.040(3), the Department has not adopted any standards for determining indigency and the right to free interpreters. The Department never assessed appellants' finances, to determine whether or not they were indigent. Thus, if an indigency determination is required to assess interpreter rights or costs herein, these appeals should be remanded for that determination.

J. Appellants had the Right to Confer with Counsel through the Board-Paid Interpreter.

The Department argues for the first time in its answers that appellants have no right to confer with counsel via interpreter because they lack a "constitutional right to counsel," citing *In re Dependency of*

²¹ See <http://www.lni.wa.gov/ClaimsIns/Providers/Manage/Interpreters/default.asp> Appendix F which the court can recognize under the legislative fact doctrine, *Rogstad v. Rogstad*, 74 Wn.2d 736, 741, 446 P.2d 340 (1968) and its progeny.

Grove, 127 Wn.2d 221, 238, 897 P.2d 1252 (1995).²² The Department suggests that because they are not entitled to representation at public expense, appellants are not entitled to confer with counsel at Board hearings or elsewhere.²³ This argument ignores the fact that RCW 2.43.030(1) requires the interpreter appointment “to assist the person *throughout the proceedings.*” Conferring with counsel in proceedings is plainly one part of the proceedings – one where an interpreter is essential.

The Act, Board, and Department all recognize an injured worker’s right to representation by retained counsel. See RCW 51.04.080, WAC 263-12-020. The *Worker’s Guide to Industrial Insurance Benefits*²⁴ recognizes the right to representation by counsel “of the injured worker’s choosing” when the Department issues an order on page 18, **Appendix G.**

GR 11.3(d) recognizes court interpreters must provide confidential attorney-client interpretation even at brief non-evidentiary matters, saying “Attorney-client consultations must be interpreted confidentially.” In WAC 263-12-125, the Board adopted GR 11.3 as applicable at the Board.

²² *Grove* does not negate the worker’s right to retained counsel under the Act which the Supreme Court recognized as vital for workers to obtain justice in *Brand v. Dep’t of Labor & Industries*, 139 Wn.2d 659, 989 P.2d 111 (1999).

²³ Appellants do not assert and have never asserted that the Department had to provide an attorney at public expense—only that if they prevail on appeal that they are entitled to attorney fees under RCW 51.52.130 and *Brand, supra.*

²⁴ Available at <http://InjuredWorker.LNI.wa.gov> in English, in Spanish at <http://www.lni.wa.gov/IPUB/242-104-999.pdf>, at <http://www.lni.wa.gov/IPUB/242->

Under the APA, applicants to benefit programs administered by state agencies have the right to “*be advised* and represented at the party’s own expense by counsel.” [Emphasis added] RCW 34.05.048 (2).²⁵ The right to receive the advice of counsel includes the right to confer via a Board-provided interpreter at Board proceedings under RCW 2.43.

III. CONCLUSION

The Department arguments in its answers are without merit. The Court is urged to adopt the analysis proposed by Amici Curiae, reverse the Superior Court, require interpreter services be provided throughout the claim, order reimbursement of appellants’ interpreter expenses, remand for further proceedings, and grant other relief requested on appeal.

Respectfully submitted this 12th of October, 2007.



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[104-111\(Russian\).pdf](http://www.lni.wa.gov/IPUB/242-104-222(Vietnamese).pdf) in Russian, and at [http://www.lni.wa.gov/IPUB/242-104-222\(Vietnamese\).pdf](http://www.lni.wa.gov/IPUB/242-104-222(Vietnamese).pdf), in Vietnamese, but not available in Bosnian. **Appendix G.**

²⁵ Certainly Department claim adjudications fit squarely within the APA’s definition of “Adjudicative proceedings” in RCW 34.05.010(1) as “a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before *or after the entry of an order by the agency.*” While other APA statutes do not apply to the Department, the definitional statute does. Likewise, the Department’s actions on claims constitute “agency action” as defined in RCW 34.05.010(3) as “licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.” Similarly the Department orders constitute “orders” as defined in RCW 34.05.010(11)(a) “a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.”

APPENDIX A

NEW¹ CASES CITED IN DLI'S AMICUS ANSWERS

Abdullah v. Immigration and Naturalization Service,
184 F.3d 158 (2nd Cir. 1999) ^{ACLU, NJP, WSTLA}

Alfonso v. Board of Review,
444 A.2d 1075 (N.J. 1982) ^{ACLU}

Almendares v. Palmer,
284 F.Supp.2d 799 (N.D. Ohio 2003) ^{NJP}

American Manufacturers Insurance Company v. Sullivan,
526 U.S. 40, 119 S.Ct. 977, 143 L.Ed.2d 130 (1999) ^{ACLU}

Augustin v. Sava,
735 F.2d 32 (E.D.N.Y. 1984) ^{ACLU}

BMW of North America Incorporated v. Gore,
517 U.S. 559, 116 S.Ct. 1589, 134 L.Ed.2d 809 (1996) ^{ACLU}

Bell v. State,
147 Wn.2d 155, 52 P.3d 503 (2002) ^{NJP}

Berrocal v. Fernandez,
155 Wn.2d 585, 121 P.3d 82 (2005) ^{WSTLA}

Bostain v. Food Express,
159 Wn.2d 700, 153 P.3d 846 (2007) ^{NJP}

Boyd v. Sibold,
7 Wn.2d 179, 109 P.2d 535 (1941) ^{WSTLA}

Campbell v. Department of Social & Health Services,
150 Wn.2d 881, 83 P.3d 999 (2004) ^{WSTLA}

City of Seattle v. Allison,
48 Wn.2d 75, 59 P.3d 85 (2002) ^{NJP}

¹ Cases not cited or discussed in any of the appellants' or respondent's earlier briefing.

^{ACLU} Cited in DLI's Answer to American Civil Liberties Union Foundation Amicus Brief

^{NJP} Cited in DLI's Answer to Northwest Justice Project's Amicus Brief.

^{WSTLA} Cited in DLI's Answer to Washington State Trial Lawyers Association Foundation Amicus Brief.

City of Seattle v. Fontanilla,
128 Wn.2d 492, 902 P.2d 1294 (1996) ^{WSTLA}

Cobas v. Burgess,
306 F.3d 441 (6th Cir. 2002) ^{WSTLA}

Covey v. Town of Somers,
51 U.S. 141, 76 S.Ct. 724, 100 L.Ed. 1021 (1956) ^{ACLU}

Department of Labor & Industries v. Fields Corporation,
112 Wn.App. 450, 45 P.4d 1121 (2002) ^{NJP}

East Gig Harbor Improvement Association v. Pierce County,
106 Wn.2d 707, 724 P.2d 1009 (1986) ^{WSTLA}

Figueroa v. Sindell,
522 F.2d 1215 (6th Cir. 1999) ^{ACLU}

Glaubach v. Regence Blueshield,
149 Wn.2d 827, 74 P.3d 115 (2003) ^{WSTLA}

Gonzales v. Department of Licensing,
112 Wn.2d 890, 774 P.2d 1187 (1989) ^{NJP}

Greenwood v. Board for Community College Education,
82 Wn.2d 667, 513 P.2d 57 (1973) ^{NJP}

Gutierrez-Chavez v. Immigration and Naturalization Service,
298 F.3d 824 (9th Cir. 2002) ^{ACLU, NJP}

Harmon v. Department of Labor & Industries,
111 Wn.App.920, 47 P.3d 169 (2002) ^{NJP, WSTLA}

Harris v. Department of Labor & Industries,
120 Wn.2d 461, 843 P.2d 1056 (1993) ^{ACLU}

In re Lint,
135 Wn.2d 518, 957 P.2d 755 (1998) ^{ACLU, WSTLA}

In re Williams,
121 Wn.2d 655, 853 P.2d 444 (1993) ^{WSTLA}

Johnson v. Morris,
87 Wn.2d 922, 557 P.2d 1299 (1997) ^{NJP}

Johnson v. Tradewell Stores,
95 Wn.2d 739, 630 P.2d 441 (1981) ^{WSTLA}

Jones v. Flowers,
547 U.S. 220, 126 S.Ct. 1708, 164 L.Ed. 2d 415 (2006) ^{ACLU}

Kufo v. Ashcroft,
391 F.3d 856 (7th Cir. 2004) ^{ACLU, NJP}

Lander v. Industrial Commission of Utah,
894 P.2d 552 (Utah Ct. App. 1995) ^{ACLU}

Landon v. Plasencia,
777 N.Y.S.2d 580 (N.Y. Sup. Ct. 2004) ^{ACLU}

Leschner v. Department of Labor & Industries,
27 Wn.2d 911, 185 P.2d 113 (1947) ^{NJP, WSTLA}

Lizotte v. Johnson,
777 N.Y.S.2d 580 (N.Y. Sup. Ct. 2004) ^{ACLU}

Mackey v. Montrym,
443 U.S. a, 99 S.Ct. 2612, 61 L.Ed.2d 321 (1979) ^{ACLU}

McDonald v. Department of Labor & Industries,
104 Wn.App. 617, 17 P.3d 1195 (2001) ^{WSTLA}

Mendoza v. Carey,
449 F.3d 2065 (9th Cir. 2006) ^{WSTLA}

Motley-Motley, Incorporated v. State,
127 Wn.App. 62, 110 P.3d 812 (2005) ^{ACLU}

Mullane v. Central Hanover Bank & Trust Company,
339 U.S. 306, 70 S.Ct. 652, 94 L.Ed.865 (1950) ^{ACLU}

National Electrical Contractors Association v. Riveland,
138 Wn.2d 9, 978 P.2d 481 (1999) ^{NJP}

Nazarova v. Immigration and Naturalization Service,
171 F.3d 478 (7th Cir. 1999) ^{ACLU, NJP, WSTLA}

Nichols v. Lau,
414 U.S. 563, 94 S.Ct. 786, 39 L.Ed.2d 1 (1974) ^{NJP}

Negron v. State,
434 F.2d 386 (2nd Cir. 1970) ^{ACLU}

Parker v. Taylor,
136 Wn.App. 524, 150 P.3d 127 (2007) ^{NJP}

People v. Estrada,
176 Cal.App.3d 410 (1986) ^{ACLU}

Santana v. Coughlin,
457 N.Y.S.2d 944 (1982) ^{ACLU}

Sorenson v. Pyeatt,
158 Wn.2d 523, 146 P.3d 1172 (2006) ^{NJP, WSTLA}

State v. Aquino-Cervantes,
88 Wn.App. 699, 945 P.2d 767 (1997) ^{NJP, WSTLA}

State v. Enstone,
137 Wn.2d 675, 974 P.2d 828 (1999) ^{NJP}

State v. Gonzalez-Morales,
138 Wn.2d 374, 979 P.2d 826 (1999) ^{ACLU, NJP, WSTLA}

State v. Mendez,
56 Wn.App. 458, 784 P.2d 168 (1989) ^{ACLU}

State v. Nemitz,
105 Wn.App. 205, 19 P.3d 480 (2001) ^{NJP, WSTLA}

State v. Storhoff,
133 Wn.2d 523, 946 P.2d 783 (1997) ^{ACLU}

State v. Thomas,
150 Wn.2d 821, 83 P.3d 970 (2004) ^{NJP}

Tingey v. Haisch,
159 Wn.2d 652, 152 P.3d 1020 (2007) ^{NJP, WSTLA}

Tuerk v. Department of Licensing,
123 Wn.2d 120, 864 P.2d 1382 (1994) ^{NJP}

United States v. Carrion,
488 F.2d 12 (1st Cir. 1973) ^{ACLU}

United States v. Lim,
794 F.2d 469 (9th Cir. 1986) ^{NJP}

Valdez v. NY City Housing Authority,
783 F.Supp. 109 (S.D.N.Y. 1991) ^{ACLU}

Washington Education Association v. Public Disclosure Commission,
150 Wn.2d 612, 80 P.3d 608 (2003) ^{NJP}

Washington State Republican Party v. Public Disclosure Commission,
141 Wn.2d 245, 4 P.3d 808 (2000) ^{WSTLA}

Wilson v. United States,
391 F.2d 460 (D.C. Cir. 1968) ^{ACLU}

Yellen v. Baez,
676 N.Y.S.2d 724 (N.Y. City Civ. Ct. 1997) ^{ACLU}

APPENDIX B

LIMITED ENGLISH PROFICIENCY PLAN

TABLE OF CONTENTS

- I. Introduction and Purpose of LEP Plan
- II. Mandates
 - A. Interpreters in Court Proceedings
 - B. Language Services for LEP Persons' Out-of-Court Contact with Court Staff and Other Court Services
- III. Goals of Washington LEP Plan
 - A. Improve Access To Quality Interpreters
 - B. Data Collection
 - C. Resources For LEP Implementation
 - D. Assisting / Advising with Local Language Assistance Plans
- IV. Stakeholders
 - A. Washington State Interpreter Commission
 - B. Administrative Office of the Courts Interpreter Program
 - C. Board for Judicial Administration
 - D. Trial Courts
 - E. Court Interpreters
 - F. Professional Associations
 - G. Limited English Proficient Population
 - H. Other Organizations
- V. Trial Court Tasks
 - A. Judges
 - B. Clerks and Court Administrators
 - C. Elements of Providing Services



WASHINGTON STATE COURT INTERPRETER SERVICES

LIMITED ENGLISH PROFICIENCY (LEP) PLAN

July 2007

*THE WASHINGTON STATE LEP PLAN IS A JOINT PROJECT OF
THE ADMINISTRATIVE OFFICE OF THE COURTS, THE
INTERPRETER COMMISSION, NORTHWEST JUSTICE PROJECT,
AND COLUMBIA LEGAL SERVICES*

I. INTRODUCTION AND PURPOSE OF LEP PLAN

As Washington State's population grows, the state's immigrant population and the Limited English Proficient (LEP)¹ community of individuals requiring access to Washington Courts increases as well. Washington State Courts, the Administrative Office of the Courts (AOC) Interpreter Program, and related stakeholders have developed methods and materials to meet the needs of the LEP population in our courts. However, the quality of the services in courts across the state has been inconsistent and at times falls below the level necessary to meet federal and state standards for providing meaningful access to the courts by LEP individuals. The goal of the Washington State LEP Plan is to assist courts statewide in devising methods to provide access to LEP individuals that consistently meet or exceed federal and state mandates.

To that end, the Washington State LEP Plan provides trial courts with a brief outline of the federal and state mandates regarding the level of services that should be made available to LEP individuals, and a guide to assist trial courts in meeting these important requirements. It lists organizations and individuals (including contact information) that have an interest in improving LEP individuals' ability to access the courts, and describes the efforts made by these groups to enable the trial courts to more readily provide quality interpreters.

This Washington State LEP Plan also includes a template and step-by-step directions for creating a Language Assistance Plan (LAP)² that can be adapted to the local needs and circumstances of each court, cluster of courts, or all courts in a county or region. **See Appendices A and B.** By utilizing the template and directions, each court or regional cluster can assess the language needs of its own court community and develop a local plan for ensuring meaningful access to the courts by all LEP individuals. This LEP plan also offers practical solutions to many of the language assistance issues faced by courts across our state. In addition, it identifies courts that have experience in implementing these suggestions and includes contact information. It is also hoped that

¹ An LEP individual is a person who does not speak English as their primary language and who has a limited ability to read, write or understand English. This person may need assistance with respect to a particular type of service, benefit or encounter. (Federal Register, Vol. 67, No 117, 41459).

² LAP's include policies, procedures, protocols, tools and services for ensuring equal access to LEP individuals, as well as for deaf and hearing-impaired persons. **See Appendices A and B.**

VI. Resources Available to the Courts for Providing Language Assistance

- A. Signage and Other Forms of Notice
- B. Translation of Forms
- C. "I Speak" Cards
- D. Telephonic Access
- E. Local Policy and Forms
- F. Training for Support Staff
- G. Education for Judicial Officers and Court Administration
- H. Coordination of Court Calendars
- I. Website Translation Services
- J. Tracking Language Needs

VII. Language Assistance Plans (LAP)

- A. Purpose
- B. Language Assistance Plan Template
- C. Schedule
- D. Local Court Practices to Provide Language Assistance to LEP Individuals

VIII. Appendices

- A. Language Assistance Plan (LAP) Instructions
- B. Language Assistance Plan (LAP) Template for Superior / District / Municipal Courts
- C. Questions to Ask or Consider When Qualifying an Interpreter
- D. Code of Conduct for Court Interpreters (GR 11.2)
- E. Comments on the Code of Conduct
- F. List of Registered and Certified Languages
- G. Local Superior Court Policies on Obtaining an Interpreter
- H. Yakima County Superior Court Request for an Interpreter Form
- I. 2007 Language Needs Survey

this LEP plan will facilitate communication and exchange of ideas between trial courts on ways to address our common concerns, thus enabling all courts to ensure that LEP individuals across the state receive a level of court access equal to those for whom English is their first language.

This document, together with the LAP template and directions, is intended to be a user-friendly guide to assist courts in (1) developing language assistance plans, (2) complying with federal and state mandates, and (3) meeting the needs of the LEP population in your jurisdiction. Please feel free to contact the Washington State Interpreter Commission or the AOC Interpreter Program with any comments and suggestions that will help achieve these goals.

The 2007 Legislature appropriated \$2 million for interpreter services in fiscal years 2008 and 2009. The Legislature required each trial court, as a condition of receiving funds to pay for interpreter services, to create a Language Assistance Plan consistent with standards established by the Administrative Office of the Courts. The attached plan, together with the LAP plan template and directions, embody the AOC LAP standards.

II. MANDATES

A. Interpreters in Court Proceedings

1. Federal and Washington law require that LEP persons be provided with competent interpreters in all court proceedings.

Both federal and Washington law require that courts provide all Limited English Proficient (LEP) people with competent interpreters during all court hearings, trials and motions in which the LEP individual participates as a party or witness.

The Federal Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin. In the regulations and guidance implementing the Civil Rights Act, the U.S. Department of Justice (DOJ) indicated that every court receiving federal financial assistance must take reasonable steps to ensure that all LEP people will have meaningful access to all court proceedings and court-related programs and activities. Washington State trial courts that receive federal financial assistance are subject to the requirements of this Act, the DOJ regulations, and the DOJ Guidance. Failure to comply with the Civil Rights Act requirements or DOJ Guidance could result in loss of federal funding for the court.

DOJ guidance states that courts must provide competent language services for every court matter for which an LEP person may or must be present, including hearings, trials, and motions. This includes not only all criminal matters, but also all civil matters. The DOJ guidance offers a four-factor analysis, described in Section B, to determine what language assistance is required beyond provision of interpreter services for court proceedings.³

Under the Washington State interpreter statute, RCW 2.43.010, it is the policy of the court to make a qualified interpreter available in all legal proceedings in which an LEP person is involved.

Federal requirements and Washington law differ somewhat on who must pay for the cost of interpreters in legal proceedings. Washington's interpreter statute provides that

³ Federal Register, Vol. 67, No 117, 41471.

If the court must qualify an interpreter from the bench, judicial officers are encouraged to use the list of questions contained in **Appendix C**. Additional detail on the certification and registration (a new intermediate category of interpreter qualification) process for court interpreters can be found in section IV – Stakeholders.

RCW 2.43.030 Appointment of Interpreter

(1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or qualified interpreter to assist the person throughout the proceedings.

(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the Administrative Office of the Courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the Administrative Office of the Courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified, or if a qualified interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the

the court, governmental body, or agency initiating the proceeding is to pay for the interpreter in all legal proceedings in which the LEP individual is compelled to appear by the court, governmental body, or agency.⁴ In all other proceedings, the cost of the interpreter is borne by the LEP individual unless the person is indigent, in which case the governmental body responsible for the legal proceeding bears the cost.⁵

The following is the DOJ's position regarding who should pay for an interpreter:

*...when oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person. For DOJ recipient programs and activities, this is particularly true in a courtroom, administrative hearing, pre- and post-trial proceedings, situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services.*⁶

Additionally, the Washington Court of Appeals in Division II (in a published decision) and the Court of Appeals in Division III (in an unpublished decision) both ruled that in a criminal case, requiring an LEP criminal defendant to pay for an interpreter but not requiring a hearing-impaired criminal defendant to pay for an interpreter violates both the Equal Protection Clause of the U.S. Constitution and the Privileges and Immunities Clause of Washington's Constitution. (*State v. Marintorres*, 93 Wn. App. 442 (1999, Div. II); *State v. Al-Khaledy*, Court of Appeals Div. III, Docket No. 22945-9-III, (2004).

2. The Washington Interpreter Statute Directs Courts on Interpreter Qualifications.

The Washington interpreter statute (RCW 2.43.030, reproduced below) directs courts on the qualifications required for interpreters used for legal proceedings. The statute requires that courts use a certified interpreter if the Administrative Office of the Courts (AOC) has certified the language that is being interpreted. After 1990, AOC began certifying language interpreters. AOC has certified interpreters in ten languages: Arabic, Cantonese, Korean, Laotian, Mandarin, Russian, Somali, Spanish, Vietnamese and American Sign Language (ASL). If a certified interpreter is not "reasonably available," the court is required to use a "qualified interpreter." Essentially, the court is required to use the most qualified interpreter that is reasonably available.

⁴ RCW 2.43.040(2).

⁵ RCW 2.43.040(3).

⁶ Federal Register, Vol. 67, No 117 at 41462.

record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the Code of Ethics for language interpreters established by court rules.

3. Court Interpreters Must Comply with the Code of Ethics for Court Interpreters

All certified and registered interpreters are tested on the Code of Ethics for Court Interpreters through the certification / registration examination process. Regardless of an interpreter's credentials, all interpreters in court are expected to be familiar with and follow the Code of Ethics (which is the same as the Code of Conduct for Court Interpreters in GR 11.2). **See Appendix D.**

RCW 2.43.080 Code of Ethics

All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a Code of Ethics established by Supreme Court rule.

Washington State certified and registered interpreters have been trained and tested on GR 11.2, the Code of Conduct. **See Appendix D.** Further, they have access to comments on the Code of Conduct. **See Appendix E.**

B. Language Services for LEP Persons' Out-of-Court Contact with Court Staff and Other Court Services

Under the DOJ Guidance, in addition to providing competent interpreters in court, when a court appoints an attorney to represent an LEP defendant, the court should ensure either that the attorney is proficient in the LEP person's language, or that a competent interpreter is provided during consultations between the attorney and the LEP person.

The DOJ guidance describes Title VI protections that extend beyond providing interpreters in court proceedings. The Guidance suggests that courts should consider four factors to determine the extent of the language assistance that must be provided to LEP individuals.⁷ The four-factor analysis consists of the following elements:

⁷ *Id.* at Section V, pp. 41459 – 41461.

1. Number or proportion of LEP people in the court's jurisdiction – demography;
2. Frequency with which LEP individuals come into contact with the court;
3. The nature and importance of the program, activity or service provided by the court to the LEP person (including the consequences of lack of language services or inadequate services); and
4. Resources available to the court locally and statewide, and costs.

In such other areas of language assistance as translation of forms, bilingual court staff, signage, etc., the four-factor analysis can be used to determine the level of assistance that must be provided and the manner in which it should be made available.

In determining what language services should be provided, DOJ guidance states that "the more important the activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed....A [federal funding] recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, State or local entity to make an activity compulsory...can serve as strong evidence of the program's importance." Examples of programs or services that are often made compulsory by courts include parenting classes, mandatory mediation or arbitration, and settlement conferences.⁸

The DOJ guidance states that courts should ensure that eligible LEP individuals have equal access to programs that will give them an opportunity to avoid or lessen confinement as part of a criminal sentence, including such programs as anger management, counseling, domestic violence treatment, and substance abuse counseling. Courts should also assess the need for language services in contacts with the court system outside of the courtroom, particularly in allowing access to courts or calendars with high numbers of unrepresented individuals, such as family, landlord-tenant, traffic, and small claims courts.⁹

In addition to discussing the need for oral interpreter services, the DOJ guidance addresses the need for translation of written materials. The guidance directs federal funding recipients to consider whether or not a document is "vital" and should be

⁸ Id. at pp. 41471 – 41472.

⁹ Id.

translated. The guidance directs that whether a document is considered "vital" should be based on the importance of the program or service it involves, and the consequence to the LEP person if the information provided by or submitted via the document is not conveyed accurately or in a timely manner. For example, applications for drug and alcohol counseling would be "vital"; applications for a bicycle safety course would not. Documents that may be "vital" include intake forms with the potential for important consequences, applications to participate in a court-ordered program or activity, and written notices of rights.¹⁰

Where a significant number of LEP individuals who speak a particular non-English language are often in need of court-related services, the court may decide to provide court forms translated into that particular language. For example, a county may translate its "how-to" materials helping unrepresented people navigate the family court process and providing information for domestic violence survivors. Conversely, where the number of LEP individuals who speak a particular language is small, simply providing an interpreter to translate the documents orally would suffice.¹¹

The DOJ strongly recommends that each court use the four-factor analysis to develop a written language assistance plan. A written plan will create a framework for providing reasonable and necessary language assistance to LEP persons and assist in training judges and court staff to implement the plan. In addition, a written plan is an excellent method of documenting the court's compliance with the mandate to ensure meaningful access.

¹⁰ Id.

¹¹ Id.

APPENDIX C



The Report of Industrial Injury or Occupational Disease

Dept of Labor & Industries

AE 98778

This form is used to apply for workers' compensation benefits from the Department of Labor and Industries State Fund. If L&I accepts the claim, it will pay the worker's medical bills and - if unable to work - a portion of lost wages. L&I will consider each section of this form before making a decision.

Keep your paperwork moving smoothly

- **Use a ball-point pen, press firmly and print legibly.**
- **Answer each question completely.** Without full information, benefits could be delayed. If you need to attach additional pages, be sure to write the claim number on each page.
- **Describe the accident or occupational disease in detail.** If an arm was injured in a fall, tell us which arm and describe how the fall occurred.

Worker instructions

- **Help us accurately calculate time-loss benefits for which you may be eligible.** Report your marital status and dependents. Be prepared to show documents to verify your information.
- **Let us know if you had more than one paying job at the time of the injury.**
- **Select a health care provider.** You have the right to choose any health care provider who is qualified to treat your condition and is reasonably convenient for you to visit. Qualified health care providers include medical, osteopathic, chiropractic, naturopathic, and podiatric physicians, dentists, optometrists and ophthalmologists. Advanced registered nurse practitioners and physician assistants also may provide treatment.
- **It is best to stay in touch with your employer and health care provider.** If your health care provider says you cannot work, let your employer know. He/she may be able to find work you can do safely while you recover.
- **Tell us if you move or change health care providers.**
- **Do not pay related medical bills** unless we inform you your claim was denied. If a pharmacy requires you to pay, keep the receipt so we can reimburse you if the claim is allowed.
- **Keep your claim number handy.** It is printed on all correspondence we send you.

Health care provider instructions

- **Give the worker's copy of this form to the patient BEFORE you complete your section.**
- **Give us a specific diagnosis with an objective description of your findings and patient observations.** Provide the ICD code and the part of the body specifically affected.
- **Estimate how long your patient may be unable to work and describe physical restrictions.** This will help us decide whether to arrange for time-loss benefits or whether your patient, with your approval, may benefit from light-duty or modified work while recovering.
- **Provide a medical treatment plan.** Include needed diagnostic testing or treatments.
- **Indicate whether the patient has previously been treated for the same or similar condition.** If available, please indicate the health care provider's name and city of treatment.
- **Include your individual L&I provider number-not your hospital's or clinic's.**
- **Mail or fax the L&I copy to us within FIVE days of treatment.** Keep the health care provider's page for your records.

Where to send this report:

Mail: Department of Labor & Industries
 P.O. Box 44299
 Olympia WA 98504-4299
 FAX: 1-800-941-2976

How to get help:

Provider Hotline: 1-800-848-0811
 Easy -Access Line: 1-800-831-5227
 Information Hotline: 1-800-547-8367
 Information Online: www.lni.wa.gov

Legal Notices:

- **False information:** RCW 51.48.020 sub section (2) provides: Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a Class C felony when such claim or application involves an amount of five hundred dollars (\$500) or more. When such claim or application involves an amount less than \$500, the person giving such information shall be guilty of a gross misdemeanor.
- **Medical Release:** RCW 51.36.060 provides: All medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any worker whose injury or occupational disease is the basis of a claim under this title shall be made available at any stage of the proceedings to the **employer**, the **claimant's representative** and the **department** upon request, and no person shall incur any legal liability by reason of releasing such information.
- **Social Security Number Disclosure:** Disclosure of your social security number is not mandatory, it is requested as part of your application for compensation under Chapter 51.28 RCW and will be used to facilitate the handling of your claim under Title 51 RCW.

Online, L&I's secure Claim & Account Center

Get the most up to date, complete information about your patients' claims online at L&I's secure Claim & Account Center www.ClaimInfo.LNI.wa.gov

Check the status of a workplace injury

- View claim documents, medical reports and L&I's notes about the claim
- Find out if L&I has authorized treatment or paid a bill

Send information to L&I

- Send us a secure message
- Let us know your patient's medical ability to work

Technical Support Assistance:

call: 1--360-902-5999

e-mail: websupport@LNI.wa.gov

NOTE: Workers' compensation claims from employees of self-insured businesses and claims for crime victims are not available in the Claim & Account Center.



REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE

WORKERS INFORMATION

Language Preference (circle one)
 English Spanish Russian Korean Chinese Vietnamese Laotian Cambodian Other: _____

Claim # **AE 98129**

1. Name (First-Middle-Last) _____ 2. Sex (circle one) Male Female
 3. Social Security Number _____ 4. Home Phone () _____ 5. Birthdate / /

6. Home Address _____ 7. Height (Ft-Inch) -

8. Weight _____

9. Mailing Address (if different from home address) _____ 10. Marital Status (circle one) Married Widowed Separated Single Divorced

11. Dependent Children Include unborn, estimate birthdate. Benefits will be based in part on number of legally dependent children. If you don't have custody, complete item 13.

12. Spouse's Name _____

13. Name & Address of Children's Legal Guardian _____

14. Date of Injury or Last Occupational Exposure / / 15. Time of Injury (circle one) AM PM 16. Shift (circle one) Day Swing Night

17. Have you ever been treated for same or similar condition? (circle one) YES NO

18. Is this condition due to a specific incident? (circle one) YES NO

19. Tell us what body part was injured and how the injury or exposure occurred. (Include tools, machinery, chemicals or fumes that may have been involved)

20. Were you doing YES your regular job? NO 21. Where did the injury or exposure occur? (circle one) Employer Premises Jobsite Other:

22. Address where injury or exposure occurred? (Business Name if at Business Location) _____

23. Was this incident caused by failure of a machine or product OR someone who is not a co-worker? (circle one) YES NO POSSIBLY

24. List any Witnesses _____ 25. When will you return to work? / /

26. When did you last work? / /

27. Did you report the incident to your employer? YES NO Name/Title of Person Reported To _____

28. Date you reported it / /

29. Was your employer contributing to your and/or family's medical, dental and/or vision insurance on the day you were injured? (circle one) YES NO

30. Business Name of Employer _____ 31. Type of Business _____ 32. How long have you worked there? _____ Years _____ Months _____ Weeks _____ Days

33. Employer's Phone # () _____

34. Employer Address _____ 35. Your Job Title & Duties _____

36. Rate of Pay at this Job (write amount, circle one) \$ _____ Hour _____ Week _____ Day _____ Month _____

37. Hours Per Day _____ 38. Day Per Week _____

39. Additional earning (circle all that apply) \$ _____ Piecework _____ Tips _____ Commission _____ Bonuses _____

40. How may paying jobs do you have? _____ 41. Are you? Owner Partner Corp. Officer Does not apply Corp. Shareholder Corp. Director Optional Coverage

42. Signature _____ **Note: READ LEGAL NOTICES ON LAST PAGE**
 I declare that these statements are true to the best of my knowledge and belief. In signing this form, I permit health care provider, hospitals, or clinics to release medical reports generated by themselves & others to the Dept. of Labor and Industries.

Today's Date / /

HEALTH CARE PROVIDERS INFORMATION

1. Diagnosis _____ 2. ICD Diag. Codes _____ 3. Date you first saw patient for this condition. / /

4. Is the injury due to a specific incident? YES NO

5. Objective findings supporting your diagnosis (Include physical, lab and X-ray findings) _____

6. Treatment and diagnostic testing recommendations _____

7. Was the diagnosed condition caused by this injury or exposure? (circle one of four) PROBABLY (50% or more) YES POSSIBLY (Less than 50%) NO

8. Will the condition cause the patient to miss work? (circle one) YES NO if YES, indicate Return to work in _____ days

9. Is there any pre-existing impairment of the injured area? YES IF YES, describe briefly or attach report NO

10. Has patient ever been treated for the same or similar condition? YES IF YES, give year, name of health care provider and city of treatment NO

11. Are there any conditions that will prevent or retard recovery? YES IF YES, describe briefly or attach report NO

12. Referral health care provider. Complete if you refer patient to another health care provider for follow up Name _____ Phone () _____

13. Name of Hospital or Clinic Name _____ Phone () _____ Address _____ City _____ State _____ ZIP Code _____

14. Attending Health Care Provider Name _____ Phone () _____ Address _____

15. Place of Service (circle one) Inpatient ER, Dr's Office/Clinic 16. Attending Health Care Provider Provider Number _____ NPI Number (after 3-1-07) _____

17. Signature _____ Licensed Health Care Provider must sign report

Today's Date / /



REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE

WORKERS INFORMATION

Language Preference (circle one) English Spanish Russian Korean Chinese Vietnamese Laotian Cambodian Other:						Claim # AE 98129			
1. Name (First-Middle-Last)		2. Sex (circle one) Male Female		14. Date of Injury or Last Occupational Exposure / /		15. Time of Injury (circle one) AM PM		16. Shift (circle one) Day Swing Night	
3. Social Security Number		4. Home Phone ()		5. Birthdate / /		17. Have you ever been treated for same or similar condition? (circle one) YES NO			
6. Home Address City State ZIP Code				7. Height (Ft-Inch)		18. Is this condition due to a specific incident? (circle one) YES NO			
9. Mailing Address (if different from home address) City State ZIP Code				10. Marital Status (circle one) Married Widowed Separated Single Divorced		19. Tell us what body part was injured and how the injury or exposure occurred. (Include tools, machinery, chemicals or fumes that may have been involved)			
You may be required to show proof of marital or dependent eligibility				12. Spouse's Name		20. Were you doing your regular job? YES NO		21. Where did the injury or exposure occur? (circle one) Employer Premises Jobsite Other:	
11. Dependent Children Include unborn, estimate birthdate. Benefits will be based in part on number of legally dependent children. If you don't have custody, complete item 13.		Name		Relationship		Legal Custody (circle one) Y N		Birthdate / /	
						Y N		/ /	
						Y N		/ /	
						Y N		/ /	
						Y N		/ /	
13. Name & Address of Children's Legal Guardian				22. Address where injury or exposure occurred? (Business Name if at Business Location)		Address		County	
						City		State ZIP Code	
						23. Was this incident caused by failure of a machine or product OR someone who is not a co-worker? (circle one) YES NO POSSIBLY		24. List any Witnesses	
								25. When will you return to work? / /	
								26. When did you last work? / /	
				27. Did you report the incident to your employer? Name/Title of Person Reported To		YES NO		28. Date you reported it / /	
				29. Was your employer contributing to your and/or family's medical, dental and/or vision insurance on the day you were injured? (circle one)		YES NO			
30. Business Name of Employer		31. Type of Business		32. How long have you worked there? ____ Years ____ Months ____ Weeks ____ Days		33. Employer's Phone # ()			
34. Employer Address City State ZIP Code				35. Your Job Title & Duties		36. Rate of Pay at this Job (write amount, circle one) \$ Hour Week Day Month		37. Hours Per Day	
								38. Day Per Week \$	
								39. Additional earning (circle all that apply) (daily average) Piecework Tips Commission Bonuses	
40. How may paying jobs do you have?		41. Are you? <input type="checkbox"/> Owner <input type="checkbox"/> Partner <input type="checkbox"/> Corp. Officer		<input type="checkbox"/> Does not apply <input type="checkbox"/> Corp. Shareholder <input type="checkbox"/> Corp. Director <input type="checkbox"/> Optional Coverage		42. Signature I declare that these statements are true to the best of my knowledge and belief. In signing this form, I permit health care provider, hospitals, or clinics to release medical reports generated by themselves & others to the Dept. of Labor and Industries. X		Today's Date / /	

HEALTH CARE PROVIDERS INFORMATION

1. Diagnosis		2. ICD Diag. Codes		3. Date you first saw patient for this condition. / /		Claim # AE 98129	
						7. Was the diagnosed condition caused by this injury or exposure? (circle one of four) PROBABLY (50% or more) YES POSSIBLY (Less than 50%) NO	
4. Is the injury due to a specific incident? YES NO		5. Objective findings supporting your diagnosis (Include physical, lab and X-ray findings)		6. Treatment and diagnostic testing recommendations		8. Will the condition cause the patient to miss work? (circle one) YES NO if YES, indicate Return to work in ____ days	
						9. Is there any pre-existing impairment of the injured area? YES IF YES, describe briefly or attach report NO	
						10. Has patient ever been treated for the same or similar condition? YES IF YES, give year, name of health care provider and city of treatment NO	
						11. Are there any conditions that will prevent or retard recovery? YES IF YES, describe briefly or attach report NO	
						12. Referral health care provider. Complete if you refer patient to another health care provider for follow up Name () Phone ()	
13. Name of Hospital or Clinic Name () Phone ()		Address		City State ZIP Code		14. Attending Health Care Provider Name () Phone ()	
						15. Place of Service (circle one) Inpatient ER Dr's Office/Clinic	
						16. Attending Health Care Provider Provider Number NPI Number (after 3-1-07)	
						17. Signature Licensed Health Care Provider must sign report X	
						Today's Date / /	

L&I USE ONLY



REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE

Language Preference (circle one)

English Spanish Russian Korean Chinese Vietnamese Laotian Cambodian Other:

Claim # **AE 98129**

WORKERS INFORMATION

1. Name (First-Middle-Last)		2. Sex (circle one) Male Female		14. Date of Injury or Last Occupational Exposure / /		15. Time of Injury (circle one) AM PM		16. Shift (circle one) Day Swing Night	
3. Social Security Number		4. Home Phone ()		5. Birthdate / /		17. Have you ever been treated for same or similar condition? (circle one) YES NO			
6. Home Address City State ZIP Code				7. Height (ft.-inch)		18. Is this condition due to a specific incident? (circle one) YES NO			
9. Mailing Address (if different from home address) City State ZIP Code				8. Weight		19. Tell us what body part was injured and how the injury or exposure occurred. (Include tools, machinery, chemicals or fumes that may have been involved)			
11. Dependent Children Include unborn, estimate birthdate. Benefits will be based in part on number of legally dependent children. If you don't have custody, complete item 13.				10. Marital Status (circle one) Married Widowed Separated Single Divorced		20. Were you doing your regular job? YES NO		21. Where did the injury or exposure occur? (circle one) Employer Premises Jobsite Other:	
12. Spouse's Name				22. Address where injury or exposure occurred? (Business Name if at Business Location) Address County City State ZIP Code					
Name		Relationship	Legal Custody (circle one) Y N		Birthdate / /		23. Was this incident caused by failure of a machine or product OR someone who is not a co-worker? (circle one) YES NO POSSIBLY		
			Y N		/ /		24. List any Witnesses		
			Y N		/ /		25. When will you return to work? / /		
			Y N		/ /		26. When did you last work? / /		
			Y N		/ /		27. Did you report the incident to your employer? Name/Title of Person Reported To YES NO		28. Date you reported it / /
13. Name & Address of Children's Legal Guardian				29. Was your employer contributing to your and/or family's medical, dental and/or vision insurance on the day you were injured? (circle one) YES NO					
30. Business Name of Employer			31. Type of Business		32. How long have you worked there? Years Months Weeks Days		33. Employer's Phone # ()		
34. Employer Address City State ZIP Code				35. Your Job Title & Duties					
36. Rate of Pay at this Job (write amount, circle one) \$		Hour Day		Week Month		37. Hours Per Day		39. Additional earning (circle all that apply) (daily average) Piecework Tips Commission Bonuses	
38. Day Per Week									
40. How many paying jobs do you have?		41. Are you? <input type="checkbox"/> Owner <input type="checkbox"/> Partner <input type="checkbox"/> Corp. Officer		<input type="checkbox"/> Does not apply <input type="checkbox"/> Corp. Shareholder <input type="checkbox"/> Corp. Director <input type="checkbox"/> Optional Coverage		42. Signature I declare that these statements are true to the best of my knowledge and belief. In signing this form, I permit health care provider, hospitals, or clinics to release medical reports generated by themselves & others to the Dept. of Labor and Industries. X			

Today's Date / /

Keep your claim moving smoothly:

- Help us accurately calculate time-loss benefits for which you may be eligible: Report your marital status and dependents. Be prepared to show documents to verify your information.
- Let us know if you had more than one paying job at the time of the injury. Select a health care provider. You have the right to choose any health care provider who is qualified to treat your condition and is reasonably convenient for you to visit. Qualified health care providers include medical, osteopathic, chiropractic, naturopathic, and podiatric physicians, dentists, optometrists and ophthalmologists. Advanced registered nurse practitioners and physician assistants also may provide treatment.
- It is best to stay in touch with your employer and health care provider. If your health care provider says you cannot work, let your employer know. He/she may be able to find work you can do safely while you recover.
- Tell us if you move or change health care providers.
- Do not pay related medical bills unless we inform you your claim was denied. If a pharmacy requires you to pay, keep the receipt so we can reimburse you if the claim is allowed.
- Keep your claim number handy. It is printed on all correspondence we send you.

Legal Notices:

- False information: RCW 51.48.020 sub section (2) provides: Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a Class C felony when such claim or application involves an amount of five hundred dollars (\$500) or more. When such claim or application involves an amount less than \$500, the person giving such information shall be guilty of a gross misdemeanor.
- Medical Release: RCW 51.36.060 provides: All medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any worker whose injury or occupational disease is the basis of a claim under this title shall be made available at any stage of the proceedings to the employer, the claimant's representative and the department upon request, and no person shall incur any legal liability by reason of releasing such information.
- Social Security Number Disclosure: Disclosure of your social security number is not mandatory, it is requested as part of your application for compensation under Chapter 51.28 RCW and will be used to facilitate the handling of your claim under Title 51 RCW.

This is your claim number: **AE 98129**

Keep this card handy when contacting us about your claim or to check if L&I has received your claim.

Name _____ Date of injury _____

Use this card to get medical services for the treatment of your work-related injury or occupational disease.

This card does not mean your claim has been allowed.

✂ Cut this card out. Keep it with you. ✂

Online, L&I's secure Claim & Account Center

Get the most up to date, complete information about your patients' claims online at L&I's secure Claim & Account Center www.ClaimInfo.LNI.wa.gov

Check the status of a workplace injury

- * View claim documents, medical reports and L&I's notes about the claim
- * Find out if L&I has authorized treatment or paid a bill

Send information to L&I

- * Send us a secure message
- * Let us know if your patient can return to work
- * Update medical information

Technical Support Assistance:

call: 1-360-902-5999
e-mail: websupport@LNI.wa.gov

NOTE: Workers' compensation claims from employees of self-insured businesses and claims for crime victims are not available in the Claim & Account Center.

Medical Release: RCW 51.36.060: All medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any worker whose injury or occupational disease is the basis of a claim under this title shall be made available at any state of the proceedings to the **employer**, the **claimant's representative** and the **department** upon request, and no person shall incur any legal liability by reason of releasing such information

Online, L&I's secure Claim & Account Center

Get the most up to date, complete information about your claim online at L&I's Claim & Account Center:
www.ClaimInfo.LNI.wa.gov

Check the status of a workplace injury

- * View claim documents and L&I's notes about the claim
- * See if a time-loss check has been issued
- * Find out if L&I has authorized treatment or paid a bill

Send information to L&I

- * Send us a secure message
- * Off work or returning to work? Update work status
- * Protest a claim decision
- * Change worker's address or phone

NOTE: Workers' compensation claims from employees of self-insured businesses and claims for crime victims are not available in the Claim & Account Center.

Technical Support Assistance:

call 1-360-902-5999
e-mail websupport@LNI.wa.gov

How to get help

Call any L&I field office. They are listed in your local phone book under Washington State, Labor and Industries.

ABERDEEN	EAST WENATCHEE	MOSES LAKE	SPOKANE	VANCOUVER
BELLINGHAM	EVERETT	MT VERNON	TACOMA	YAKIMA
BREMERTON	KENNEWICK	PORT ANGELES	TUKWILA	
COLVILLE	LONGVIEW	SEATTLE	TUMWATER	

L&I claim information:

Easy-Access Line: 1-800-831-5227
Information Helpline: 1-800-547-8367
Information Online: www.lni.wa.gov

APPENDIX D



Department of Labor and Industries
 Claims Section
 PO Box 44291
 Olympia WA 98504-4291

TIME-LOSS NOTIFICATION

Unit	Work Position
Claim Number	
Date of Request	
Date of Injury	

Provider: Complete and return this form to assist the department in considering eligibility for time-loss compensation.

Worker: Time-loss compensation is paid if you are unable to work for more than the three days immediately following the day of injury.

Persons making false statements in obtaining industrial insurance benefits are subject to civil and/or criminal penalties under the law.

Worker's Statement

I have not worked nor was I able to work due to a work-related injury/illness from / / to / /

I will/did return to work on / / (This includes any type of work including self-employment, COPES or CHORE Services.)

I am working Full time Part time for _____ hours a day

I have applied for the following benefits Unemployment Food Stamps only Other Public Assistance programs

If your employer was contributing to you and/or your family's medical, dental and/or vision insurance and you had coverage on the day of injury, do you still have employer-paid coverage? Yes No
 If not, when did employer-paid coverage end? / /

I understand I am to immediately report to my claim manager if I return to any work or my doctor releases me for work; or if I am incarcerated or under sentence by order; or if there are any changes in custody of the children. I understand that I am responsible for notifying the department as these changes can affect my compensation benefits.

I certify the above statements are true and correct.

Date	Worker's signature	Phone #
------	--------------------	---------

Doctor's Statement

Diagnosis due to injury

Date of last treatment for this injury was / / Date of next scheduled appointment is / /

I certify this patient has been unable to return to any type of work from / / to / /

This patient is released for work on / / -OR- I expect to release this patient to return to work on / /

Please list any restrictions, indicate if they are temporary or permanent. Also include objective medical findings to support these restrictions.

Has the patient's condition(s) resulting from this injury reached maximum medical improvement? Yes No

Will permanent impairment result from this injury? Yes No

Remarks

Physician's name (print or type)

Provider account #

Phone #

Address

City State ZIP+4

Date

Physician's signature



TIME-LOSS NOTIFICATION

Unit	Work Position
Claim Number	
Date of Request	
Date of Injury	

Worker instructions: This is your request for time-loss compensation, which must be completed by you AND your doctor before we can consider you for benefits. If you are unable to work due to your workplace injury AND your employer is not paying your full wages:

- 1.) Fill in your section of the form, sign and date.
- 2.) Take it to your doctor to complete.

Doctor instructions: After completing this form, please sign and mail to the above address.

Worker's Statement

I did not perform any work, paid or unpaid, due to a work-related injury/illness from _____ to _____. This includes, but is not limited to, self-employment, COPEs or CHORE Services. Did you engage in other work type activities such as volunteer work? Yes No If so, please describe:

I will/did return to work on _____	I am now working _____ Hours/Day	I am now working _____ Days/Week	My current wage is: \$ _____ per <input type="checkbox"/> Hour <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Month
------------------------------------	----------------------------------	----------------------------------	---

I have applied for the following benefits: None Unemployment Food stamps only Other public assistance programs Social Security benefits

On the date of your injury, was your employer paying any part of your and/or your family's medical, dental and/or vision insurance benefits, or providing housing, board and/or fuel (utilities)? Yes No

Are you still receiving these benefits? Yes No Date coverage ended _____

By signing below, I am certifying the following: I understand that if I make a false statement about my activities or physical condition, I will be required to refund my benefits and I may face civil or criminal penalties. I understand I must immediately contact my claim manager if I perform any work (paid or unpaid), if my doctor releases me for work, if I am incarcerated and under sentence, or if the custody of my children changes.

Phone #	Date	Worker's signature
---------	------	--------------------

Doctor's Statement

Diagnosis due to workplace injury or illness:

I certify this patient, because of the above condition, has been unable to perform any type of work activity -- paid or unpaid -- from _____ to _____

This patient is released for work on: _____ -OR- I expect to release this patient to return to work on: _____

List the objective medical findings that show this patient is unable to work because of this work-related condition:

Please list your *specific restrictions* for this patient, due to this injury:

Are these restrictions: <input type="checkbox"/> Temporary <input type="checkbox"/> Permanent <input type="checkbox"/> Undetermined	Has the patient's condition(s) due to this injury reached maximum medical improvement? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undetermined
---	---

Will permanent impairment result from this injury? Yes No Undetermined

Remarks

Physician's name (print or type)	Provider account #	Phone #
Address	City	State ZIP+4
Date	Physician's signature	



NOTIFICACIÓN DE TIEMPO PERDIDO

Unit	Work Position
Número del reclamo	
Fecha de la solicitud	
Fecha de la lesión	

Instrucciones para el trabajador: Esta solicitud para la compensación por tiempo perdido, tiene que ser completada por Ud. y su doctor antes de poder considerarla para recibir beneficios. Si debido a la lesión sufrida en su trabajo, no puede trabajar y su empleador no le está pagando su salario:

- 1.) Complete la declaración del trabajador, la fecha y su firma.
- 2.) Llévele el formulario a su médico para que complete la declaración del doctor.

Instrucciones para el doctor: Después de completar este formulario, por favor firmelo y envíelo a la dirección de arriba.

Declaración del trabajador

Debido a una lesión/enfermedad ocupacional relacionada con el trabajo, no he trabajado ni he podido trabajar desde ___/___/___ hasta ___/___/___ (Es decir, Ud. no ha realizado ningún trabajo – remunerado o sin remunerar – tales como trabajo voluntario, empleo por cuenta propia o por servicios sociales (COPES o CHORE).

Regresé/regresaré a trabajar el día ___/___/___	Estoy trabajando ___ Horas/Día	Estoy trabajando ___ Días/Semana	Mi tarifa de pago es: \$ _____ dólares por <input type="checkbox"/> Hora <input type="checkbox"/> Día <input type="checkbox"/> Semana <input type="checkbox"/> Mes
---	--------------------------------	----------------------------------	---

He solicitado los siguientes beneficios: Ninguno Estampillas para la comida solamente Beneficios del seguro social Desempleo Otros programas de asistencia pública

En el día que se lesionó, ¿Estaba su empleador pagando alguna parte del seguro médico, dental y/o de la vista de Ud. y/o su familia? o ¿Le proveía vivienda, comida y/o combustible (servicios públicos)? Sí No

¿Continúa recibiendo estos beneficios? Sí No Fecha en que terminaron los beneficios ___/___/___

Con mi firma estoy certificando que: Entiendo que si hago una declaración falsa sobre mis actividades o mi condición física, tendré que devolver mis beneficios y podría afrontar sanciones civiles o criminales. Entiendo que tengo que comunicarme de inmediato con mi gerente de reclamo, si realizo cualquier tipo de trabajo (remunerado o no), si mi doctor me da de alta para trabajar, si estoy encarcelado o si hay algún cambio en la custodia legal de mis hijos.

Nº de teléfono	Fecha	Firma del trabajador
----------------	-------	----------------------

Declaración del doctor

Diagnóstico por lesión o enfermedad ocupacional relacionada con el trabajo

Por la condición mencionada arriba, yo certifico que este paciente no ha podido realizar ningún trabajo - remunerado o no - Desde ___/___/___ hasta ___/___/___

Este paciente puede regresar a trabajar el día: ___/___/___ - O - Espero darle de alta para regresar a trabajar el día: ___/___/___

Enumere los resultados médicos objetivos demostrando que este paciente no puede regresar a trabajar debido a esta condición relacionada con el trabajo.

Por favor escriba sus **restricciones específicas** para este paciente debido a esta lesión:

Estas restricciones son: Temporales Permanentes Indeterminadas Ha mejorado lo máximo posible la condición(es) del paciente debido a esta lesión? Sí No Indeterminado

¿Resultará una incapacidad permanente de esta lesión? Sí No Indeterminado

Comentarios

Nombre del doctor (escriba con letra de molde o a máquina) Número de cuenta del proveedor Nº de teléfono

Dirección Ciudad Estado Código postal

Fecha Firma del doctor

APPENDIX E



WORKER VERIFICATION FORM

Unit	Work Position
Claim number	
Date of request	
Date of injury	



Instructions to worker: This is your request for time-loss compensation. This must be completed before we can consider you for benefits. If you are unable to work due to your workplace injury AND your employer is not paying your full wages: 1) Complete this form 2) Sign and date 3) Mail it to the address above within 14 days of the date you received this mailing.

Name	Phone number	
Address		
City	State	ZIP

Fill in ONLY if you have a new address and/or phone number.

Worker's Statement

I did not perform any work, paid or unpaid, due to a work-related injury/illness from _____ to _____. This includes, but is not limited to, self-employment, COPES or CHORE Services. Did you engage in other work type activities such as volunteer work? Yes No If so, please describe: _____

I will/did return to work on _____	I am now working _____ Hours/Day	I am now working _____ Days/Week	My current wage is: \$_____ per <input type="checkbox"/> Hour <input type="checkbox"/> Day <input type="checkbox"/> Week <input type="checkbox"/> Month
------------------------------------	----------------------------------	----------------------------------	--

I have applied for the following benefits: None Food stamps only Social Security benefits
 Unemployment Other public assistance programs

On the date of your injury, was your employer paying any part of your and/or your family's medical, dental and/or vision insurance benefits, or providing housing, board and/or fuel (utilities)? Yes No

Are you still receiving these benefits? Yes No, date coverage ended _____

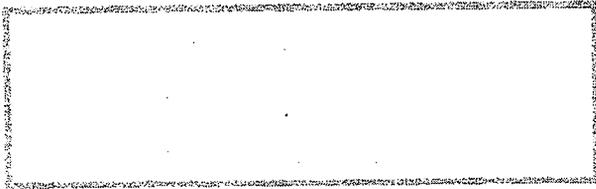
By signing below, I am certifying the following: I understand that if I make a false statement about my activities or physical condition, I will be required to refund my benefits and I may face civil or criminal penalties. I understand I must immediately notify my claim manager if I perform any work (paid or unpaid), if my doctor releases me for work, if I am incarcerated and under sentence, or if the custody of my children changes.

Phone #	Date	Worker's signature
---------	------	--------------------



FORMULARIO DE VERIFICACIÓN DE EMPLEO

Unit	Work Position
Número del reclamo	
Fecha de la solicitud	
Fecha de la lesión	



Instrucciones para el trabajador: Esta es su solicitud para compensación por tiempo perdido. Tiene que completarla antes que podamos considerarlo para recibir beneficios. Si no puede trabajar debido a la lesión sufrida en su trabajo y su empleador no le está pagando su salario completo: 1) Complete este formulario 2) Fírmelo y escriba la fecha 3) Envíelo a la dirección arriba dentro de 14 días a partir de la fecha en que recibió esta correspondencia.

Nombre	Número de teléfono		
Dirección			
Ciudad	Estado	Código postal	

Llene esta casilla solamente si tiene una dirección y/o número de teléfono nuevo.

Declaración del trabajador

Debido a una lesión/enfermedad ocupacional relacionada con el trabajo, no he trabajado con pago o sin pago desde _____ hasta _____. Esto incluye pero no se limita a: empleo por cuenta propia o por servicios sociales (mes, día, año)

COPEP o CHORE. ¿Ha trabajado en otro tipo de actividades tales como trabajo voluntario?

Sí No Por favor describa:

Regresé/regresaré a trabajar el día _____	Estoy trabajando _____ Horas/Día	Estoy trabajando _____ Días/Semana	Mi tarifa de pago es: \$ _____ dólares por <input type="checkbox"/> Hora <input type="checkbox"/> Día <input type="checkbox"/> Semana <input type="checkbox"/> Mes
---	----------------------------------	------------------------------------	---

He solicitado los siguientes beneficios: Ninguno Estampillas para la comida solamente Beneficios del seguro social Desempleo Otros programas de asistencia pública

En el día que se lesionó, ¿Estaba su empleador pagando alguna parte del seguro médico, dental y/o de la vista de Ud. y/o su familia? o ¿Le proveía vivienda, comida y/o combustible (servicios públicos)? Sí No

¿Continúa recibiendo estos beneficios? Sí No Fecha en que terminaron los beneficios _____

Con mi firma estoy certificando que: Entiendo que si hago una declaración falsa sobre mis actividades o mi condición física, tendré que devolver mis beneficios y podría afrontar sanciones civiles o criminales. Entiendo que tengo que comunicarme de inmediato con mi gerente de reclamo, si realizo cualquier tipo de trabajo (remunerado o no), si mi doctor me da de alta para trabajar, si estoy encarcelado y bajo sentencia o si hay algún cambio en la custodia legal de mis hijos.

Nº de teléfono	Fecha	Firma del trabajador
----------------	-------	----------------------

Contents

Guide to Benefits	
What is Industrial Insurance?	1
What to Do if You Are Injured at Work	2
Your Benefits	4
Health Care Services	4
What health care services are covered?	4
May I choose my doctor?	4
Will L&I pay my medical bills?	5
May I change doctors once my claim is filed?	5
Time-Loss Compensation	
(Wage-replacement benefits)	5
How do I qualify for time-loss compensation?	6
How long do I have to be off work to qualify for time-loss compensation benefits?	6
When will my first benefit check come in the mail?	6
How long will I receive time-loss compensation benefits?	6
Will I ever have to return time-loss compensation benefits to L&I?	7
How time-loss compensation is calculated	7
Establishing your gross income	8
Possible effects on Social Security benefits	9
Time-loss compensation for asbestos-related occupational diseases	9
Other Benefits	10
Refunds for traveling to a doctor or job training appointment	10
Property damage refunds	10
Motor vehicle modification	11
Home modification	11
Help Getting You Back to Work	11
Modified Jobs	11
Employability Assessments	12
Vocational Plans	13
Protesting Decisions about Vocational Benefits	13

APPENDIX F



Topic Index | Contact Info |

Search

Home Safety Claims & Insurance Workplace Rights Trades & Licensing

Find a Law (RCW) or Rule (WAC) Get a Form or Publication

Help

- Workers' Comp Claims
- For Medical Providers
 - Becoming an L&I Provider
 - Provider Topics A-Z
 - Managing Claims
 - Filing Claims
 - Check a patient's claim
 - Helping Workers Get Back to Work
 - Pre-authorizations
 - Referrals to Specialists
 - Independent Medical Exams
 - Protest L&I Decisions
 - HIPAA and L&I
 - Interpreter Services
 - Billing & Payment
 - Check the Status of a Claim
 - For Vocational Counselors
 - Treatment Guidelines
 - Research & Training
 - Forms & Publications

- Fraud & Complaints
- Insurance for Business
- Help for Crime Victims
- WACs & RCWs

Interpreter Services

About Do's & Don'ts Becoming Bill L&I Fee Codes

Look up an interpreter - Find an interpreter for an injured worker. [Contact Us](#)

To find an interpreter for a crime victim, call 1-800-762-3716 or 360-902-5386.

Interpreting for an injured worker or a crime victim is covered by L&I and does not require prior authorization. The doctor or vocational provider can determine if the patient needs communication assistance.

Do's & Don'ts - What you can and cannot do as an interpreter.

As an interpreter for an injured worker or crime victim, learn what is allowed.

Becoming - How to become an interpreter.

- Be certified as an interpreter.
- Get an L&I provider account number.
- Also, how to update your status or other account information.

Bill L&I - How to bill L&I for your services.

Information on how to bill L&I, what is covered and what forms to use.

Fee Codes - Use these codes and policies to bill L&I.

Use the codes on this page to bill L&I or the self-insurer. There is also a list of what is not covered and a page of [sample billing scenarios](#).

If you have questions, please contact [Cecilia Maskell](#) or call 360-902-5161.



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Workers' Comp Claims

For Medical Providers

- [Becoming an L&I Provider](#)
- [Provider A-Z Index](#)
- [Managing Claims](#)
 - [Filing Claims](#)
 - [Check a patient's claim](#)
 - [Pre-authorizations](#)
 - [Referrals to Specialists](#)
 - [Independent Medical Exams](#)
 - [Protest L&I Decisions](#)
 - [HIPAA and L&I](#)
 - [Self-insured Employer List](#)
 - [Getting Workers Back on the Job](#)
- [Interpreter Services](#)
- [Billing & Payment](#)
- [Check the Status of a Claim](#)
- [For Vocational Counselors](#)
- [Treatment Guidelines](#)
- [Research & Training](#)
- [Forms & Publications](#)

Fraud & Complaints

Insurance for Business

Help for Crime Victims

WACs & RCWs

Interpreter Lookup Service

Some interpreters are listed more than once because they work for several language agencies.

[Contact Us](#)

If you can't locate an interpreter in your area, broaden your search - interpreters are willing to work in other areas occasionally.

Search for an Approved Interpreter

Language

Location or

or

Last name

Search Results below may include additional locations because the interpreter has indicated they are available to work in the location you selected.

Search Results: Found 61 Intrepreters

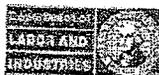
Page 7 of 7

<<< Prev

Jump to Page:

Results sorted by: City, A to Z

Provider Name	City	Phone Phone	Alternate Phone
ZIMMERMAN MILA H (INTER)	VANCOUVER	360-896-3881	



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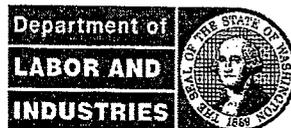


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APPENDIX G

Workers' Guide to

Industrial Insurance Benefits



What is Industrial Insurance?

Whether an injured worker is covered by L&I's Washington State Fund, or a self-insured employer, he or she is entitled to no-fault accident and disability coverage.

This "industrial insurance" covers medical expenses and pays a portion of wages lost while a worker recovers from a workplace injury. Insurance

*L&I benefits are
for job-related
injuries only.*

premiums paid by both workers and employers finance these benefits.

Unlike other types of insurance, L&I can cover injuries only if they happen at a definite time and place at work. Also, claims for occupational diseases are accepted *only* if your work and medical history shows you have an illness or infection that was directly caused by the work you do, and not by something else.

We all work hard to prevent accidents that result in injuries or exposure to hazardous substances that may cause occupational diseases. Still, nearly 175,000 work-related injuries and occupational diseases are reported to L&I each year. Another 64,000 on-the-job injuries and diseases are reported each year to self-insured companies.

If you suffer an on-the-job injury or occupational disease, we encourage you to maintain contact with your employer. Let your employer know how you are doing. If you are unable to return to your old job for a while, talk to your employer about lighter-duty work you may be able to do during your recovery. Many return-to-work options may be pursued. Some are outlined in this guide. Read it and know your rights.

If you believe the decision is wrong, you may protest it to L&I. You also have the right to appeal directly to the Board of Industrial Insurance Appeals (Board) without first protesting to L&I. You do not need to hire an attorney for a protest or appeal, but you may if you choose to do so.

Protest to L&I

You must send a written protest within 60 days of receiving L&I's decision. Try to explain in detail why you think the decision is unfair, and supply any additional information you think may help us in our evaluation. Mail your protest to the Claims Section, PO Box 44291, Olympia, WA 98504-4291.

We will review your claim and send you a written decision in response to your protest. If you disagree with this decision you may appeal in writing to the Board.

Appeal to the Board after protest to L&I

You must send your appeal to the Board within 60 days of receiving L&I's decision. Write to: Board of Industrial Insurance Appeals, 2430 Chandler Ct. SW, PO Box 42401, Olympia, WA 98504-2401. The Board's phone number is (360) 753-6823 or 1-800-442-0447 (in-state toll-free line).

The Board, which is independent of L&I, conducts hearings on claim issues that cannot otherwise be settled to the satisfaction of you, your employer or the department. The Board issues a written decision about your case after personal arguments and testimony have been taken. This decision may be appealed to a Washington State Superior Court. For more detailed information, ask the Board for its pamphlet, *Your Right to be Heard*.

Guide to Benefits

This is your guide to industrial insurance benefits. It explains the benefits available to you if you are injured on the job or develop an occupational disease. These benefits vary, depending on the injury. They can include paid health care, wage replacement and other services to aid you in your recovery and return to work.

If you are injured on the job in Washington, you are insured by the Washington State Fund, unless you are employed by one of the approximately 400 employers who are self-insured. (L&I publishes a different guide for workers employed by self-insured businesses.) If your claim is accepted, the benefits and level of service to which you are entitled are set by the state Legislature and administered by the Department of Labor and Industries. Our goal is to provide quality services to help you recover and return to work as soon as possible.

This guide summarizes what happens when you file a claim, and how you can help make the process work smoothly for you. It also explains your rights and responsibilities, and tells you what choices you have if you disagree with a decision. This booklet, however, is not a legal interpretation of the law.

Information is current as of June 2006.
Updates will be added as changes occur.

For more information:

Visit the web
InjuredWorker.LNI.wa.gov

Call L&I's toll-free information line
1-800-LISTENS (1-800-547-8367)

Disability Awards, Pensions & Survivor Benefits	14
Awards: Partial Permanent Disabilities	14
Specified disabilities	14
Unspecified disabilities	14
Rating a worker's unspecified disability	14
Pensions: Total Permanent Disabilities	15
Your pension options	16
Survivor Benefits	16
Monthly pension payments	16
Immediate cash payments and burial benefits	17
Dependent benefits	17
Remarriage	17
Your Legal Rights and Responsibilities	17
Protesting an L&I Decision about Your Claim	17
If You Need Legal Assistance	19
Reopening a Claim	19
Protection from Employer Discrimination	20
Claim Paperwork	20
Giving L&I False Information	20
When Injuries Are Caused by a "Third Party"	21
The Basic Health Plan	21
Information and Assistance	22
L&I Service Locations throughout Washington State	23



Topic Index | Contact Info

Search

- Home
- Safety
- Claims & Insurance
- Workplace Rights
- Trades & Licensing

Find a Law (RCW) or Rule (WAC) | Get a Form or Publication

Help

- Workers' Comp Claims**
- For Medical Providers
 - Become an L&I Provider
 - Provider A-Z Index
 - Managing Claims
 - Filing Claims
 - Check a patient's claim
 - Pre-authorizations
 - Referrals to Specialists
 - Independent Medical Exams
 - Protest L&I Decisions
 - HIPAA and L&I
 - Self-insured Employer List
 - Getting Workers Back on the Job
 - Interpreter Services
 - Billing & Payment
 - Check the Status of a Claim
 - For Vocational Counselors
 - Treatment Guidelines
 - Research & Training
 - Forms & Publications
- Fraud & Complaints
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Interpreter Lookup Service

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[Contact Us](#)

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Search for an Approved Interpreter

Language:

Location: or

Last name:

Search Results below may include additional locations because the interpreter has indicated they are available to work in the location you selected.

Search Results: Found 61 Intrepreters

Page 1 of 7 [Next >>>](#) Jump to Page:

Results sorted by: City, A to Z

Provider Name	City	Phone Phone	Alternate Phone
ADEE MERIMA (INTPR)	AUBURN	206-709-7777	
ADEE MERIMA (INTERPRETER)	BELLEVUE	425-453-9890	888-352-9890
AMIR ARSLANAGIC (INTPR)	BELLEVUE	425-453-9890	888-352-9890
BOJAT DAJANA (INTERPRETER)	BELLEVUE	888-462-0500	
COLEMAN JASMINA S (INTPR)	BELLEVUE	888-462-0500	
COLIC ZLATKO (INTER)	BELLEVUE	888-462-0500	
COLIC ZLATKO (INTERPRETER)	BELLEVUE	425-453-9890	888-352-9890
DELALIC ALMA (INTERPRETER)	BELLEVUE	206-660-5560	
DILBEREVIC SALMA (INTERPRETER)	BELLEVUE	425-238-7794	
FATKIC INDIRA (INTERPRETER)	BELLEVUE	425-453-9890	888-352-9890



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Guía de los trabajadores

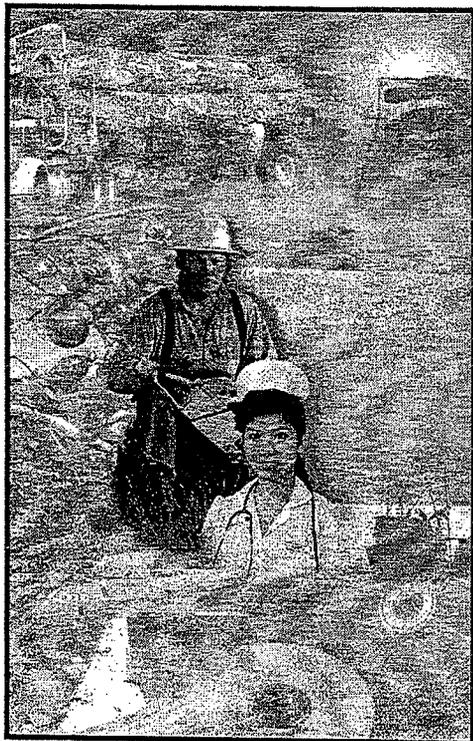
para los beneficios
de seguro industrial



APPENDIX H

Руководство для работников

по выплатам промышленного страхования



Руководство по страховым выплатам

Это ваше руководство по выплатам промышленного страхования. Оно предоставляет объяснение страховых выплат, которые вы можете получить, если вы получили трудовое увечье или профессиональное заболевание. Выплаты зависят от вида увечья. Они могут включать оплату медицинского обслуживания, возмещение зарплаты и другие услуги, для того чтобы помочь вам выздороветь и вернуться на работу.

Если вы получили трудовое увечье в штате Вашингтон и вы не работаете на одного из приблизительно 400 работодателей, у которых есть самострахование, вы застрахованы Фондом штата Вашингтон. (Отдел труда и промышленности (L&I) публикует отдельное руководство для работников предприятий, имеющих самострахование). Если ваш иск принят, положенные вам выплаты и уровень обслуживания, установлены законодательным органом штата и предоставляются Отделом труда и промышленности. Наша цель — предоставить качественные услуги, чтобы помочь вам выздороветь и вернуться на работу в кратчайший срок.

В этом руководстве кратко изложено, что происходит, когда вы подаете иск и что вы можете сделать, для того чтобы процесс оформления прошел без проблем. Руководство также дает объяснение ваших прав и обязанностей и извещает вас о том, какой у вас есть выбор, если вы не согласны с каким-либо решением. Настоящая брошюра, однако, не является юридическим толкованием закона.

Информация актуальна на март 2005 г. Будет обновляться по мере внесения изменений.

**Если вам нужна
дополнительная информация:**

Смотрите сайт по адресу:
injuredWorker.LNI.wa.gov

Звоните в бесплатную информационную
службу Отдела труда и промышленности
1-800-LISTENS (1-800-547-8367)

3. Calls the requesting person to notify him or her that interpretive services are authorized, and give a reminder that interpreters will not be reimbursed without an L&I provider number for interpretive services.
4. Sends the medical and/or vocational provider a letter (see Attachment 10.30-A) confirming the authorization, with copies to the worker, employer, and interpreter, if known.
5. On AUTH, enters the appropriate interpreter services package code, including the date span for the period authorized.

Package 115	Interpreter Services / Package includes all medical and vocational interpretive services
Package 116	Interpreter Services / IME "No Shows"

6. Periodically reviews the need for interpretive services.

IF DENYING INTERPRETIVE SERVICES:

7. Documents the phone calls and decision and marks a "Y" to send a copy to the file.
8. Calls the requesting person to notify them of the denial and explain the reasons.
9. Sends the worker a letter confirming the denial and explaining the reasons. Sends copies to the attending doctor, vocational counselor (if assigned), employer and interpreter, if appropriate.
10. On AUTH, denies the appropriate interpreter services package code, and includes the appropriate date spans.

Package 115	Interpreter Services / Package includes all medical and vocational interpretive services
Package 116	Interpreter Services / IME "No Shows"

11. On CLOG, creates a message that interpretive services have been denied and the reason for the denial.

TASK 10.30-B

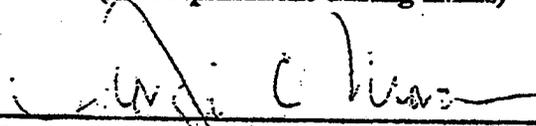
MEDICAL TREATMENT ADJUDICATOR

Section: Provider Information **Effective:** 9-1-98

Title: Paying for Interpretive Services **Cancels:** None

See Also: WAC 296-23-165 (miscellaneous services)
WAC 296-23-255 (conditions for accompaniment)
Policy 13.11 (accompaniment during IMEs)

Approved by:



Georgia C. Moran, Program Manager for Claims Administration

When receiving a bill for interpretive services, the medical treatment adjudicator:

1. Verifies that the bill includes all required records:
 - Worker's name
 - Claim number
 - Language of interpretation
 - Date(s) of service provided
 - Name of medical or vocational services provider
 - Purpose of provider appointment
 - Medical or vocational provider's signature
 - Interpreter's signature
- 1a. If the bill is incomplete, returns the bill to the interpreter to complete and resubmit.
2. On **LINEIS**, verifies that the adjudicator has authorized interpretive services. If not, contacts the adjudicator to determine whether or not the service is authorized.
3. If the adjudicator authorizes the service, allows the payment.
 - 3a. If the adjudicator is not authorizing the service, denies the payment.

Letter Authorizing Interpretive Services

(date)

Claim Number:

(name of medical or vocational provider)
(address)

Dear (name of medical or vocational provider):

The department was recently notified that (worker's name) needs interpretive services to assist with medical or vocational appointments.

I am authorizing interpretive services provided by (interpreter's name and phone) from (date) to (date) only for medical or vocational services under this claim. If (worker's name) needs interpretive services beyond this time, please contact me for further authorization.

The department does not schedule interpreters for medical or vocational appointments. It is your responsibility to arrange for an interpreter for these appointments.

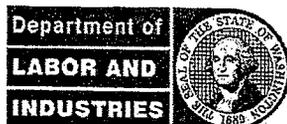
Sincerely,

(name), Claim Manager
(area code / phone number)

cc: Worker
 Employer
 Interpreter
 (Medical or Vocational Provider: whichever is not the addressee)

Tập Hướng Dẫn Công Nhân về

Các Quyền Lợi Bảo Hiểm Kỹ Nghệ



Tập Hướng Dẫn về Các Quyền Lợi

Đây là tập hướng dẫn cho quý vị về các quyền lợi bảo hiểm kỹ nghệ. Tập này giải thích các quyền lợi dành cho quý vị nếu bị thương khi làm việc hoặc bị bệnh liên quan đến nghề nghiệp. Các quyền lợi này khác nhau tùy theo thương tích. Số này có thể gồm đài thọ dịch vụ chăm sóc sức khỏe, bồi hoàn lương và các dịch vụ khác để giúp quý vị bình phục và trở lại làm việc.

Nếu quý vị bị thương khi đang làm việc tại Washington, quý vị được Quỹ Tiểu Bang Washington bảo hiểm, trừ phi quý vị làm việc cho một trong khoảng 400 hãng sở tự bảo hiểm. (L&I ấn hành một tập hướng dẫn khác cho công nhân làm việc cho các cơ sở tự bảo hiểm.) Nếu đơn của quý vị được chấp thuận, mức quyền lợi và dịch vụ quý vị được hưởng là do Lập Pháp tiểu bang ấn định và Bộ Lao Động và Kỹ Nghệ điều hành. Mục tiêu của chúng tôi là cung cấp các dịch vụ có phẩm chất để giúp quý vị hồi phục và trở lại làm việc càng sớm càng tốt.

Tập hướng dẫn này tóm lược sự việc khi quý vị nộp đơn xin, và cách quý vị có thể giúp cho tiến trình được xuôi song cho quý vị. Tập này cũng giải thích về các quyền và trách nhiệm của quý vị, và cho biết quý vị có các chọn lựa gì nếu không đồng ý về một quyết định. Tuy nhiên, tập sách này không phải để diễn giải luật pháp.

Chi tiết mới nhất vào Tháng Ba 2005.
Sẽ có thêm cập nhật khi có thay đổi.

Muốn biết thêm chi tiết:

Hãy đến web
InjuredWorker.LNI.wa.gov

Gọi đường dây thông tin miễn phí của L&I.
1-800-LISTENS (1-800-547-8367)