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NO. 57445-1-I

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

HAJRUDIN KUSTURA, et al.,

Appellants,

v.

DEPARTMENT OF LABOR AND INDUSTRIES,

Respondent.

AMICUS CURIAE BRIEF
NORTHWEST JUSTICE PROJECT

NORTHWEST JUSTICE PROJECT
Kelly Owen, WSBA #16599
Kate Laner, WSBA #19967
Patrick Pleas, WSBA #25737
401 2nd Avenue S., Ste 407
Seattle, WA 98104
Tel. (206) 464-1519
Fax (206) 624-7501

ATTORNEYS FOR AMICUS

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Department of Labor and Industries, Provider Bulletin at 2, (March 2005). Online version: http://www.lni.wa.gov/ClaimsIns/Files/Providers/ProvBulletins/PbFiles/PB0504.pdf 13

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Fact Sheet on the Foreign Born, Demographic & Social Characteristics, Migration Policy Institute (visited July 7, 2007). Online version: www.migrationinformation.org/DataHub/state.cfm?ID=WA 2

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A. Nava v. State of Washington Employment Security Department, Cause No. 93-2-00654-1(Thurston Co. Superior Court (1994).

B. Clarification of April 2006 Changes to Chapter 296-15 WAC (Dec. 2006).

C. Selected Washington statutes and regulations.

I. STATEMENT OF INTEREST OF AMICUS CURIAE

The Northwest Justice Project's identity and interest as amicus is described in its Motion for Leave to File Amicus Brief.

II. INTRODUCTION

This case addresses whether limited English-proficient (hereafter, LEP) injured workers should lose their workers' compensation appeal rights because they miss appeal deadlines after receiving notices only in English and after receiving no assistance in their primary language from the Department of Labor and Industries (hereafter, Department) to understand the notices or appeal deadlines.

This case also addresses whether under Washington law LEP injured workers should be provided with interpretation of their entire workers' compensation hearings so that they can understand and participate. With almost none of the proceeding interpreted, one appellant said of the first day of her hearing, "I just felt like somebody was hiding something from me." Lukić CABR Tr 9/29/03, 31.

III. ISSUES

A. Is the Department Required to Communicate Its Orders to Limited English Proficient (LEP) Injured Workers in Their Native Language to Trigger the 60-day Appeal Period Under RCW 51.52.060(1)?

B. Does RCW 2.43 Require that LEP Injured Workers Receive Interpreter Assistance Throughout Their Hearings Before the Board of Industrial Insurance

Appeals, and Is Failure to Provide That Assistance Reversible Error?

IV. LEGAL AND DEMOGRAPHIC BACKGROUND OF LEP ISSUES IN WASHINGTON STATE

To understand the importance of this case to the LEP residents of Washington, one must consider the nature of that population and the laws that govern the language services they receive. Between 2000 and 2005 the foreign born population grew 23.3 percent, to comprise 12.2 percent of Washington's total population.[1] In 2005, 14.2 percent of the state's civilian employed workforce were foreign-born,[2] and 7.5 percent were LEP.[3] Employers in the state are filling many positions with foreign workers on temporary visas[4] who are unlikely to become English proficient.

Foreign-born Washingtonians face many challenges. In 2005, 16.4 percent of the foreign-born population in Washington state lived

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[1] Fact Sheet on the Foreign Born, Demographic & Social Characteristics, Migration Policy Institute (visited July 7, 2007) <www.migrationinformation.org/DataHub/state.cfm?ID=WA>.
[2] Fact Sheet on the Foreign Born, Workforce Characteristics, Migration Policy Institute (visited July 7, 2007) <www.migrationinformation.org/DataHub/state.cfm?ID=WA>.
[3] Id.
[4] The U.S. Department of Labor certified 872 temporary agricultural workers for Washington under the H-2A visa program in 2006; in 2007 that number is expected to more than double. Washington State Farm Bureau, Employer Essentials, Little Progress Likely on Worker Shortages by State, Feds - Seasonal Employers Brace for Another Tough Season (Feb. 2007) <http://www.wsfb.com/EmployerEssentials/EE2007-02.pdf>

below the poverty line.[5] In that same year, half of the foreign-born population age 5 and older was LEP,[6] and 4.2 percent of all households in Washington were linguistically isolated (meaning that all household members age 14 and over were LEP).[7] Although lack of English proficiency has a negative impact on foreign-born workers' employment opportunities,[8] in many cases it is difficult for low income working immigrants to access ESL classes or other services due to time constraints, costs, or waitlists.[9] Moreover, many foreign-born individuals face unique barriers beyond economic hardship, including trauma from war, cultural isolation, lack of familiarity with U.S. "systems," and inadequate services.[10]

Federal and Washington laws increasingly mandate that public agencies provide interpreters and translate written materials to ensure

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[5] Fact Sheet on the Foreign Born, Income and Poverty Characteristics, Migration Policy Institute (visited July 7, 2007) <www.migrationinformation.org/DataHub/state.cfm?ID=WA>.
[6] Fact Sheet on the Foreign Born, Language & Education Characteristics, Migration Policy Institute (visited July 7, 2007) <www.migrationinformation.org/DataHub/state.cfm?ID=WA>.
[7] Id.
[8] English literacy has been identified as a prerequisite to economic advancement. See, *e.g.*, King County Task Force on Regional Human Services Basic Service Level Qualitative Analysis, Aug. 6, 2004, found at www.metrokc.gov/exec/tfrhs/docs/082304TFRHSReportFinalGoal5.pdf.
[9] Bellevue Community College reported an ESL waitlist of over 600 individuals in June, 2003; Eastern King County reported a waitlist of 962 in October 2003. See King County Task Force on Regional Human Services Basic Service Level Qualitative Analysis, supra.
[10] See, eg., Forgotten Voices, Untold Stories, Seattle/King County Making Connections, Annie E. Casey Foundation (April 2001) <www.mcskc.org/documents/Report.PDF>.

immigrants may fully participate in government-funded services. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving federal financial assistance. 42 U.S.C.A § 2000d (1994). The U.S. Supreme Court in Lau v. Nichols, 414 U.S. 563, 94 S. Ct. 786, 39 L.Ed.2d 1 (1974), held that Title VI may require the provision of language services to LEP individuals to prevent discrimination on the basis of national origin.

As the lead Title VI enforcement agency, the U.S. Department of Justice (hereafter, DOJ) enacted regulations in 1966 that bar recipients of federal financial assistance from "utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin..." 28 C.F.R. § 42.104(b)(2) (2003). DOJ later issued a guidance memo describing LEP language services required under Title VI to prevent unjustified disparate impact on the basis of national origin.[11] The guidance sets forth several factors for determining the type and extent of language services an agency should provide, including the number or proportion of LEP individuals, the frequency of contact with the

[11] Department of Justice October 26, 2001 Memorandum Regarding Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency). This guidance was issued in accordance with Executive Order 13166, which required all federal agencies to issue Title VI LEP guidance for federal fund recipients. 65 Fed.

program, the nature and importance of the program, and the resources available.[12]

Numerous Washington statutes and regulations require agencies to provide interpreters and translations of documents for LEP persons. RCW Chapter 2.43 requires provision of interpreters for all legal proceedings, including administrative proceedings. The Department of Social and Health Services' (hereafter, DSHS) regulations require full translation of all written communication to all LEP applicants and recipients, including notices, forms, and client rights pamphlets.[13] Washington's Employment Security Department (hereafter, ESD) regulations specifically require that a claimant's "linguistic limitations... including any lack of facility with the English language" shall be considered in determining whether good cause should be found to allow a late appeal. WAC 192-04-090.[14] The Office of Administrative Hearings,

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Reg. 50121 (Aug. 16, 2000) < http://www.lep.gov>.

[12] Id.

[13] WAC 388-271-0030 and 388-458-0002. These regulations were promulgated pursuant to the terms of a settlement agreement in the case of Reyes v. Thompson, in which the LEP plaintiffs sought declaratory and injunctive relief requiring DSHS to provide information, notice and services concerning public benefits in their primary languages in accordance with Title VI of the Civil Rights Act. See Reyes v. Thompson, Cause No. C91-303, U.S. District Court for the Western District of Washington (1991) http://www.healthlaw.org/link.cfm?8341>. The court may take judicial notice of the Reyes settlement agreement as a legislative fact. Wyman v. Wallace, 94 Wn.2d 99, 102-03, 615 P.2d 452 (1980); Houser v. State, 85 Wn.2d 803, 807, 540 P.2d 412 (1975); Rogstad v. Rogstad, 74 Wn.2d 736, 741, 446 P.2d 340 (1968).

[14] This provision was enacted pursuant to a settlement agreement in Nava v. State of Washington Employment Security Department, Cause No. 93-2-00654-1 (Thurston Co. Superior Court, (1994) (attached hereto as Appendix A), which also required ESD to translate appeal-related critical forms and notices into Spanish and provide summaries

which handles DSHS and ESD appeals, is required to provide translated hearing notices and decisions or a translated statement of the notice's importance and information on how to get help understanding it. WAC 388-02-0130. Interpreters are appointed at no cost to the appellant and are to interpret "statements made by the parties and the ALJ." WAC 388-02-0120 and -0145.

V. ARGUMENT

A. RCW 51.52.060(1) And Equity Require that the Department Communicate with LEP Injured Workers in Their Native Language To Trigger the 60-Day Appeal Period.

1. The Department Has Interpreted RCW 51.52.060(1)(a) to Require that Its Orders Be Translated into LEP Worker's Native Languages to Satisfy the Communication Requirement Triggering the 60-day Appeal Period.

RCW 51.52.060(1)(a) states that a person aggrieved by an order of the Department must file an appeal "within sixty days from the day on which a copy . . . was communicated to such person." The Department asserts herein that communication of an order to LEP injured workers requires neither providing translated orders nor taking any steps to assure the workers know the orders are important, carry appeal deadlines, and

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for several other languages that the notice affects unemployment and the person should call for free oral translation. Id. at 9-11. The court may take judicial notice of the Nava settlement agreement as a legislative fact. See note 13.

should be translated. However, the Department's written policies for self-insurers require translation of all orders to LEP workers, along with other written communication, to satisfy the "communicated" requirements.

The Industrial Insurance Act (hereafter, IIA) provides an injured worker no-fault accident and disability coverage, with claims administered by either the Department under the State Fund pursuant to RCW Title 51 (generally) or by the employer under the Self-insurance program pursuant to RCW 51.14. The Department defines specific requirements for a self-insurer's administrative organization through its Self Insurance Program. RCW 51.14.030(5).

The Department unequivocally requires self-insurers to "communicate" with limited English proficient (LEP) workers in their native language. On April 1, 2006, the Self Insurance Program implemented new regulations under WAC Chapter 296-15, concerning self-insurers' handling of claims. WAC 296-15-350(9) requires every self-insurer to "ensure a means of communicating with all injured workers." In a memo issued in December 2006, the Department clarified WAC 296-15-350(9), as follows:

> "For non-English speaking or limited English proficiency injured workers, each employer or their representative *is required to communicate with the worker in the worker's preferred language.* Workers are not responsible for

> providing their own interpreter or translation services when communicating with the employer or employer's representative."

Clarification of April 2006 changes to Chapter 296-15 WAC (attached hereto as Appendix B) at 2 (emphasis added).[15] According to the memo, self-insurers must provide interpreter or translation services for "[w]ritten communications between the worker and the employer or their representative, translating documents coming in from as well as going out to the worker." Id. Interpretation must also be provided for phone contact with the worker. Id.

The Washington Supreme Court in Rodriguez v. Department of Labor & Indus., 85 Wn.2d 949, 540 P.2d 1359 (1975), held that in a case involving an LEP farmworker who failed to appeal timely because his translator was unavailable, RCW 51.52.060's "communicated" requirement was satisfied when the worker received a copy of the English order. However, 32 years after the Rodriguez decision, the Department itself now interprets communication of an order to an injured

[15] The December 2006 Memo is available via an Internet archive to all members of the Department's Self Insurance list serve on the Washington State Government Web Site "Access Washington" at <http://listserv.wa.gov/cgi-bin/wa?A0=LNI-SELF-INSURANCE>. The reader is invited to join the list serve or, or if already signed up, to go directly to the Archive page, where the memo is listed under December 2006. The court may take judicial notice of the December 2006 Memo pursuant to the legislative fact doctrine. See note 13. The facts contained in the Department's December 2006 memo are "legislative" facts, as they do not pertain to the parties to the dispute and instead are provided to assist the court in "legal reasoning and the lawmaking process." See Fed.R.Evid. 201 advisory committee's note. The Washington Rules of Evidence (ER) apply to appeals filed with the Board of Industrial Insurance Appeals. WAC 236-12-125. ER 201(a)-(f) contains the same language as Fed.R.Evid. 201(a)-(f).

LEP worker as requiring more than simple mailing of an English order, instead requiring self-insurers to translate all orders. The Department's position presumably reflects the evolution in Title VI law, under which the Department as a federal recipient must provide language assistance for vital notices about crucial services, as described by the DOJ Memo Regarding Executive Order 13166, see supra pp. 4-5, and the U.S. Department of Labor's Title VI Guidance, see infra pp. 12-13.

While under Rodriguez the worker's subjective understanding does not determine communication, the Department has changed its interpretation of what the party issuing an order must do to communicate an order to an LEP worker. An agency's interpretation of the law shall be accorded substantial weight by the courts. Flanigan v. Dep't. of Labor and Indus., 65 Wn. App. 119, 121, 827 P.2d 1082, 1084 (1992), citing Haley v. Medical Disciplinary Bd., 117 Wn.2d 720, 728, 818 P.2d 1062 (1991). There is no reasonable justification for holding self-insurers to a higher standard for protection of workers than the State itself in the instant cases. The Department's interpretation of "communicate[d]" for self-insurers under WAC 296-15-350(9) should apply equally to defining when the Department has "communicated" an order to a worker under RCW 51.52.060(1)(a).

2. Equity Requires that the 60-Day Appeal Deadline be Extended Where the Department Fails to Communicate with Known LEP Injured Workers in Their Native Languages.

The Department contends that appellants Lukić and Memisevic failed to file timely appeals of their wage computation orders.[16] This court should find these appeals to be timely as a matter of equity.

In Rodriguez, supra, the Court allowed the LEP farmworker's untimely appeal under equity, noting that "it is clear appellant was extremely illiterate and himself unable to ascertain or understand the nature and contents of the order communicated, and the department knew or should have known of appellant's illiteracy at the time it closed his claim." 85 Wn.2d at 955. Similarly, in Ames v. Department of Labor & Indus., 176 Wash. 509, 30 P.2d 239 (1934), the court allowed a worker's late appeal under equity where he had been declared insane and was thus incapable of understanding the order.

In Kingery v. Dep't of Labor & Indus., 132 Wn.2d 162,174, 937 P.2d 565 (1997), the court rejected an appeal by a widow filed 8 years

[16] The Department contends that Appellants Lukić and Memišević never appealed their wage computation order. Appellants' counsel responded that notices of appeal filed with the Board for Lukić and Memišević included the value of "lost Cockle benefits," necessarily part of the wage computation order. Notice of appeal may be filed with either the Board or the Department. RCW 51.52.060(1)(b). Pleading in the administrative context is much more flexible than in civil court. Jacquins v. Dep't of Social and Health Services, 69 Wn. App. 21, 26, 847 P.2d 513(1993); Marysville v. Puget Sound Air Pollution Control Agency, 104 Wn.2d 115, 119, 702 P.2d 469 (1985).

after her husband's workplace death. The court distinguished the case from Rodriguez and Ames, noting:

> "Key to the application of equitable principles in Ames and Rodriguez are two elements: the claimant's competency to understand the content of the order and the appellate process, including noted time limits, when the Department communicated the order to the claimant, and some misconduct on the part of the Department in communicating its order to the claimant." Id. at 571.[17]

Here, as in Rodriguez, the claimants are LEP and were unable to read the Department's orders closing their claims. The Department never communicated orally or in writing with Ms. Lukić in her language, nor did it give her information in Bosnian of appeal rights. Lukić CABR Tr 9/29/03, 24. She had no free interpreter assistance; the interpreter she used charged $40 per hour. Id. at 27. Ms. Memišević did not understand Department notices, and the Department never communicated with her orally or in writing in her own language. CABR Tr 12/11/03, 74, 76, Memišević CABR 4/5/04, 36-37, 56. She had to pay for an interpreter to explain Department paperwork sent to her. Memišević CABR Tr 12/11/03 at 76. The Department knew that she was LEP. Memišević CABR 4/5/04 at 10-11.

The Department's failure to communicate with Ms. Lukić and Ms. Memišević in a manner that would enable them to understand the

Department's orders constituted misconduct. The Department can easily determine a claimant is LEP, based on medical reports or other claim-related documents. Memišević, CABR Tr 12/11/03, 49. The Department thus knew that these workers were LEP. The Department acknowledges that upon recognizing a worker is LEP, it may utilize translated notices.[18] Memišević CABR Tr 12/11/03, 47-50. No such translated notices were provided here.[19] Nor did the Department inform Ms. Lukić and Ms. Memišević in their native language about appeal rights under the IIA. Memišević CABR Tr 4/5/05, 36-37. This misconduct by the Department prevented Ms. Lukić and Ms. Memišević from understanding the Department's orders or getting any translation assistance from the Department.

As discussed earlier, the Department's own policies require self-insurers to translate all orders and written communication to LEP workers. See supra, p. 6. The Department is therefore fully cognizant of the need to provide language access to LEP claimants, yet it declined to do so in the cases at bar.

The Department's failure to provide language assistance to these LEP claimants violated Title VI requirements. U.S. Department of

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[18] Although telephone interpretation is available to allow claimants to speak to Department staff, the Department does not have any policy of informing LEP workers about this service. Memišević CABR Tr 4/5/04, 29.

[19] One IAJ noted that the "record is clear" that the Department did not provide

Labor (hereafter, DOL), which provides funds to the Department,[20] has promulgated guidance requiring that its recipients take steps to ensure LEP persons' access to critical programs. DOL Title VI Guidance, 68 Fed. Reg. 32290-01 (May 29, 2003).[21] Unemployment insurance benefits are repeatedly cited by the guidance as one such critical benefit. Id. at 32298, 32299, 32302. The guidance requires federal fund recipients to "formulat[e] a successful policy for effectively communicating with LEP individuals" in unemployment appeals cases, in light of the time deadlines for appeals, and the risk that LEP claimants will erroneously lose benefits. Id. at 32304; see also id. at 32299, 32303. Where a small LEP population renders full translation impractical the guidance requires other steps be taken -- such as including a multilingual tag-line informing claimants of free translation of notices, or orally advising of free interpreter assistance. Id. at 32303-04.

Workers' compensation appeals should be accorded at least the same level of LEP services under Title VI as those provided for

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interpreter service other than for medical and vocation providers. Memišević CABR Tr 4/5/04, 36.

[20] See, e.g. Laws of 2003, 1st Spec. Sess., ch. 25, § 217, lines 34, 36 <http://www.elc.wa.gov/sub/5404-s_sl.pdf>. The Department acknowledged it is covered by Title VI in a bulletin describing its interpreter services for medical appointments and acknowledges that failure to provide interpreting may constitute discrimination. Department of Labor and Industries, Provider Bulletin at 2 (March 2005) <http://www.lni.wa.gov/ClaimsIns/Files/Providers/ProvBulletins/PbFiles/PB0504.pdf>.

[21] Available online at http://www.usdoj.gov/crt/cor/lep/DOLrecipientguidancefin.htm. While this Guidance was issued in 2003, it interpreted recipients' prior-existing obligations under Title VI and DOL Title VI regulations at 29 C.F.R. § 31.3(b)(2).

unemployment benefits. The Department's failure to provide such services to Ms. Lukić and Ms. Memišević was clear misconduct.

In sum, Ms. Lukić's and Ms. Memišević's cases involve the exact factors justifying equitable relief in Rodriguez, and Ames: claimants who lacked competency to understand the Departments's orders, accompanied by misconduct by the Department. Ms. Lukić's and Ms. Memišević's late-filed appeals should be allowed under equity.

B. RCW 2.43 and WAC 263-12-097(1) Require that the Board of Industrial Insurance Appeals Provide An Interpreter at All Legal Proceedings It Conducts Where a Non-English-Speaking Person is a Party.

1. RCW 2.43 Clearly Applies to Board Proceedings.

In 1989 the Washington State Legislature explicitly affirmed the fundamental importance of providing interpreters to non-English speaking persons by passing RCW 2.43, which requires the provision of interpretation in all legal proceedings. The legislature declared that it is state policy to "secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them." RCW 2.43.010.

RCW 2.43 is broad in scope, extending to civil, criminal, and

administrative proceedings. It does not allow interpretation to be waived unless the non-English speaking person requests the waiver *and* the appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently. RCW 2.43.060.

RCW 2.43.020 defines "legal proceeding" broadly to include hearings "before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof." The Board is both an administrative board and a state agency, and its proceedings clearly fall within the purview of RCW 2.43.

The State contends that RCW 2.43 does not apply to the Board because the Board does not "initiate" proceedings within the meaning of RCW 2.43.040(2). However, RCW 2.43.040 only addresses who shall *pay for* the interpreter required by RCW 2.43.030(1). It does not change the scope of RCW 2.43.030(1)'s requirement to appoint an interpreter.

2. WAC 263-12-097(1) Acknowledges that RCW 2.43 Applies to Board Hearings.

The Board's own regulations acknowledge that RCW 2.43 applies to its hearings. WAC 263-12-097(1) states that when a non-English-speaking person as defined in chapter 2.43 RCW is a party or witness in a hearing before the Board,

> "[t]he industrial appeals judge may appoint an interpreter to assist the party or witness throughout the proceeding. Appointment, qualifications, waiver, compensation, visual recording, and

> ethical standards of interpreters in adjudicative proceedings are governed by the provisions of chapters 2.42 and 2.43 RCW.... "

While this regulation states that the judge "may" appoint an interpreter, the word "may"must be read in the context of the entire regulation, which acknowledges the Board must comply with RCW 2.43's requisites on appointment of an interpreter.[22]

3. The Board's Failure to Provide an Interpreter at Every Stage of the Hearings Violated RCW 2.43 and WAC 263-12-097(1).

RCW 2.43 and the regulations governing Board hearings plainly require that interpretation be provided "throughout the proceedings." RCW 2.43.030(1); WAC 263-12-097(1). The Board lacked a legal basis for depriving appellants of full interpretation of their hearings, including all discussion on and off the record, all argument, all rulings, and the taking of testimony by all witnesses.

a. Testimony Obtained via Deposition to Perpetuate Should be Interpreted, Under RCW 2.43 and WAC 263-12-097(1).

Regulations governing Board hearings specifically provide a process for perpetuating testimony by deposition without any showing that such testimony cannot otherwise be obtained, and allow the deposition to be appended to the record as part of the transcript. WAC 263-12-117. Witnesses who testify via depositions to perpetuate do not

[22] Compare, Parker v. Taylor, 136 Wn. App. 524, 528-529, 150 P.3d 127 (2007).

appear at the in-person hearing, yet their testimony is treated the same as live testimony. The Board's denial of interpretation at perpetuation depositions impaired the appellants' rights to understand testimony and contribute to questioning of crucial witnesses, including treating physicians, medical consultants, consulting economists, and employers.[23]

b. Where Substantial Portions of a Hearing Are Not Interpreted for an LEP Party, Reversal and Remand for a Fully Interpreted Hearing is Appropriate.

Appellants Kustura and Lukić were effectively excluded from large portions of their hearings due to the denial of interpretation. Mr. Kustura was denied interpretation for any part of the hearing other than to place his own testimony in the record. Kustura CABR Tr 9/18/02, 7-8, Kustura PD & O CABR 71, adopted by Kustura D & O CABR 13-21. Nor was he allowed to use an interpreter that he had hired and brought to the hearing. Kustura CABR Tr 9/18/02 at 5.

Ms. Lukić was not provided with interpretation of any preliminary matters, nor for hearings on motions in her case, despite having requested full interpretation. Lukić CABR Tr 2/12/03, 11, 4/24/03, 1-29, 39. On the first day of her hearing, she was allowed only occasional summaries of statements by the judge or counsel. Lukić

[23] One commentator notes: "[t]o the extent that a party has the right to be present,... presence means the ability to understand and communicate with counsel. The client must be able to assist with the case while his or her attorney is deposing opposing parties and witnesses." Helen E. Reagan, Considerations in Litigating A Civil Case

CABR Tr 4/24/03, 29-32.[24] She received full interpretation of the rest of the hearing following assignment of a new judge, but was denied interpretation to communicate with counsel at hearing. Lukić CABR Tr 8/20/03, 14-15. She was denied interpretation of depositions. Lukić Order Granting Review of Interlocutory Appeal, CABR 244.

The standard for review on appointment of an interpreter is abuse of discretion. State v. Gonzales-Morales, 138 Wn.2d 374, 387, 979 P.2d 826 (1999). A trial court abuses its discretion when its exercise of discretion is manifestly unreasonable or based upon untenable grounds or reasons, Davis v. Globe Mach. Mfg. Co., 102 Wn.2d 68, 77, 684 P.2d 692 (1984), or if the discretionary decision is contrary to applicable law. In re Jannot, 110 Wn. App. 16, 22, 37 P.3d 1265 (2002), aff'd, 149 Wn.2d 123, 65 P.3d 664 (2003).

In Gonzales-Morales, the Washington Supreme Court considered whether allowing the interpreter assisting the defendant to communicate with counsel to also interpret one witness' testimony was an abuse of discretion. In answering no, the Court stressed that the defendant was able to understand every word of the proceeding and could call a recess to consult with counsel. The Court cited with approval United States v. Lim, 794 F.2d 469, 471 (9th Cir. 1986) that "[a]s long as the defendant's

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with Non-English-speaking Clients, 65 Am.Jur. Trials 1 §16.

ability to understand the proceedings and communicate with counsel is unimpaired, the appropriate use of interpreters in the courtroom is a matter within the discretion of the district court."

Here, the judges' rulings on interpreting in Mr. Kustura's and Ms. Lukić's cases left them unable to understand much of their hearings or communicate with counsel. Without offering any rationale, Mr. Kustura's hearing judge specifically held that interpretation of testimony by witnesses other than Mr. Kustura was "not deemed necessary." Kustura PD & O CABR 71. Denial of full interpretation was an abuse of discretion, violating RCW 2.43 and preventing Mr. Kustura and Ms. Lukić from fully participating in their proceedings.

The denial of full interpretation also impaired Mr. Kustura's and Ms. Lukić's constitutional due process rights. NJP concurs with the ACLU's detailed analysis of due process issues in its amicus brief.

Finally, denial of interpretation impaired Mr. Kustura's and Ms. Lukić's rights to be free of discrimination. Federal DOL Title VI Guidance, 68 Fed. Reg. at 32296, requires that qualified interpreters be provided in administrative hearings where "individual rights depend on precise, complete, and accurate interpretation..."[25]

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[24] Ms. Lukić was provided with an interpreter for her testimony and the testimony of one witness at hearing. Lukić CABR Tr 2/12/03, 11-12.

[25] See discussion supra pp. 12-13. While Alexander v. Sandoval, 532 U.S. 275, 280-281, 121 S.Ct. 1511, 149 L.Ed.2d 517 (2001) held that Title VI disparate impact

Reversal and remand is the appropriate remedy in Mr. Kustura's and Ms. Lukić's cases. It is impossible to evaluate the harm caused by lack of interpreter services without translated transcripts to identify errors or omissions.[26] In criminal cases, constitutional error is presumed prejudicial; the State bears the burden of proving the error harmless. City of Bellevue v. Lorang, 140 Wn.2d 19, 32, 992 P.2d 496 (2000). The same standard should apply here, given the important rights at issue.[27]

VI. CONCLUSION

For the foregoing reasons, we respectfully request that the Court find that Appellants Lukić's and Memišević's appeals were timely, and reverse and remand Appellants Kustura's and Lukić's cases for hearing with full interpretation.

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regulations create no private right of action, it did not strike down the disparate impact regulations. Sandoval does not bar this court from considering whether Appellant's Title VI rights were violated by failure to provide full interpretation of hearings. The Washington Law Against Discrimination, RCW 49.60.010 et. seq. may also have been violated, see Duvall v. County of Kitsap, 260 F.3d 1124 (9th Cir. 2001).

[26] See, Debra L. Hovland, Errors in Interpretation: Why Plain Error is Not Plain, 11 Law & Inequality 473, 487 (June 1993).

[27] Requiring appellants in cases such as this to demonstrate full interpretation would have changed their hearings' outcomes transfers to them the state's burden of interpreting the hearing, when many LEP workers are low-income.

Respectfully submitted this 12th day of July, 2007

NORTHWEST JUSTICE PROJECT

By _____

Kate Laner, WSBA #19967
Kelly Owen, WSBA #16599
Patrick Pleas, WSBA #25737
401 2nd Avenue S., Ste 407
Seattle, WA 98104
Tel. (206) 464-1519
Fax (206) 624-7501

APPENDIX A

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF THURSTON

MANUELA NAVA, Petitioner, v. STATE OF WASHINGTON EMPLOYMENT SECURITY DEPARTMENT, Respondent.	NO. 93-2-00654-1 SETTLEMENT AGREEMENT

FILED
SUPERIOR COURT
BETTY J. GOULD
THURSTON COUNTY CLERK

This agreement is entered into between Manuela Nava, Plaintiff, represented by Evergreen Legal Services, and Employment Security Department (ESD), and the Office of the Administrative Hearings (OAH), defendants, represented by the Attorney General The purpose of this agreement is to resolve the lawsuit initiated by the plaintiff. In consideration for the plaintiff's dismissal of her action, without prejudice to later refiling, defendants agree to the following measures regarding services to unemployment insurance claimants with limited English proficiency.

This action was filed as a class action, the class being defined as "all limited English speaking individuals, presently or in the future, who apply for or receive unemployment compensation benefits, who file an appeal concerning their benefits and who receive notices concerning administrative hearings and appeals therefrom that are not in their primary language nor accompanied by a notice in their primary language that adequately describes

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905 Plum Street, Building 3
PO BOX 40110
Olympia, WA 98504-0110
(206) 753-2702

the significance of the notice and how the recipient may receive assistance in understanding the notice." The parties agree that no class will be certified in this case. However, the parties also agree that putative class members are intended beneficiaries of this settlement agreement.

The policy of the Employment Security Department and the Office of Administrative Hearings with regard to claimants with limited English proficiency is enunciated by statute: "to welcome and encourage the presence of diverse cultures and the use of diverse languages in business, government and private affairs in this state." RCW 1.20.100. OAH and ESD further adopt as their policy that elaborated in RCW 2.43.010: "to secure the rights, constitutional or otherwise, of persons who, because of a non-English speaking cultural background, are unable to readily understand or communicate in the English language."

1. DEFINITIONS

The following definitions are used in this agreement:

1.1 Limited English Proficient Person (LEP)

Any person whose primary language is not English and who cannot readily speak, read and understand the English language.

1.2 Primary Language

The language other than English which a limited English proficient person is able to readily speak and understand.

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1.3 Most Common Primary Languages

The most common primary languages of LEP persons likely to be applying for unemployment insurance benefits in Washington State, further identified as Tier I and Tier II languages.

Tier I Languages. The Tier I language for purposes of this agreement is Spanish. Because of its overwhelming preponderance as the most common LEP language, Spanish shall continue to receive primary emphasis and attention in services to LEPs.

Tier II Languages. These are Vietnamese, Chinese (Cantonese), Korean, Russian, Polish, Laotian, Cambodian, Thai, Amharic, Hungarian, Chinese (Mandarin) and Tagalog.

Tier III Languages. All other primary languages are considered Tier III languages.

1.4 Forms

Information sheets given to unemployment insurance claimants which contain general statements of rights or instructions, but which are not specific to a particular case. These include, but are not limited to:

a. EMS Form 10134, Claimant Right to Appeal.

b. EMS Form 5354 - Appeal. "Notice of Appeal" (backside) (Instructions on appeal process to be handed out to claimant when he/she files a Notice of Appeal).

c. EMS X 1105 - Hearing. "Notice of Hearing" (backside) (Instructions on appeal process to be sent by OAH upon

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scheduling of the appeal - will include required for offering interpreter).

d. EMS Form 10117, Advice of Rights.

e. Notice to Interested Parties (Insert to accompany acknowledgement of receipt of Petition for Review).

1.5 Procedural Notices

Short pre-printed notices related to specific adjudicative proceedings that contain limited amounts of individualized information relating to a particular claimant's appeal. These include, but are not limited to:

a. Form - _____, Notice of Hearing,

b. Form - _____, Order of Postponement,

c. Form - _____, Order of Deferral,

1.6 Pleadings

Short pre-printed forms excluding argument and attachments used by a party to initiate an appeal or review:

a. Form - 5354, Notice of Appeal (side-by-side translation),

b. Form - 5356, Petition for Review (side-by-side translation).

1.7 Orders

Adjudicative orders issued from either the Administrative Law Judge or the Commissioner and his/her delegates. These include but are not limited to Order of Default, Order Approving Withdrawal, Initial Order of the Office of Administrative

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Hearings, Decision of the Commissioner and the Order Upon Reconsideration.

1.8 Universal Buck Slip

A brief and summary notice provided to an LEP claimant in his/her primary language used to accompany an English language notice when full translation of an English language document is not provided in claimant's primary language, substantially similar to Exhibit A.

1.9 Expanded Buck Slip

A more detailed notice provided to an identified LEP claimant in his/her primary language used to accompany an English language Procedural Notice when full translation of the English language is not provided in the claimant's primary language, substantially similar to Exhibits B and C. It contains a description of the significance of the procedural notice and additional steps available to the recipient or the employer. There are two types: Exhibit B to accompany procedural hearing notices and Exhibit C to accompany acknowledgements of Petitions for Review.

1.10 Order Cover Sheet

A detailed notice provided to an identified LEP claimant in his/her primary language, used to accompany an English language order, substantially similar to Exhibits D and E, to accompany orders of OAH or a Commissioner's Review Delegate, respectively.

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2. IDENTIFICATION OF LEP CLAIMANTS

2.1 Effective October 1, 1993 ESD began identifying LEP claimants at intake at the job service centers, collecting such data by language and service area. ESD will continue to collect and organize such data by language, service area and claimant.

2.2 Effective August 1, 1993, OAH began collecting similar data on hearings where interpreters were requested.

2.3 Based on the data collected, ESD and OAH shall review their classification of tiers of Languages by March 1 of each calendar year and recategorize languages by March 31 of each year. If frequency of a particular language not currently classified as Tier II is comparable to the mean annual frequency of languages currently classified as Tier II, ESD and OAH shall reclassify the particular language into that appropriate category. ESD shall no reclassify Tier I (Spanish) nor any Tier II language into a category giving it lower priority without following the modification procedures outlined in Section 8 below.

3. NOTICES AND FORMS

Tier I & II

3.1 Forms. The Employment Security Department and OAH agree to provide translated Forms and Pleadings to all Tier I and Tier II LEP claimants within nine months of the date of this agreement.

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PO BOX 40110
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(206) 753-2702

3.2 Procedural Notices

The Employment Security Department and OAH agree to provide translated Procedural Notices to all Tier I and Tier II LEP claimants within twelve months of the date of this agreement.

3.3. Orders

Within nine months of the date of this agreement, the Employment Security Department and OAH agree to provide translated Order Cover Sheets, (Exhibits D and E) to accompany all orders, to Tier I & II LEP claimants who have been provided interpreter service at OAH hearings.

3.4 Interim Steps

ESD and OAH will proceed immediately to have the Expanded Buck Slips, Exhibits B and C, translated into Tier I and Tier II languages and utilize them for all Tier I and Tier II claimants as soon as available and until the appropriate forms are translated. They will continue to be used for appropriate claimants thereafter. While translation of Forms and Expanded Buck Slips is being accomplished, ESD and OAH may provide Tier II claimants with the Universal Buck Slip. The use of the Universal Buck Slip shall be discontinued for Tier II claimants as soon as the Expanded Buck Slip translations are accomplished. The Order Cover Sheets will continue in use for Tier I and Tier II orders.

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905 Plum Street, Building 3
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Tier III

3.7 ESD and OAH will provide the Universal Buck Slip to Tier III LEP claimants.

4. ADDITIONAL HEARING PROCEDURES

Effective immediately, OAH shall communicate the content of adjudicative orders to LEP claimants as follows:

4.1 At the hearing, the ALJ shall notify the claimants through the interpreter that he/she should contact the interpreter for an oral translation of the Initial Order and shall provide the claimant with a telephone number for contacting the interpreter.

4.2 At the hearing, the ALJ shall notify the claimant through the interpreter that he/she may contact the local Job Service Center, if contact with the interpreter is not successful in order to obtain an oral translation as needed.

4.3 Videos. The Department has produced a video in Spanish with instructions regarding filling out continued claim forms. This video is available to all English and Spanish speaking LEP claimants. The Department is in the process of producing a video regarding claimant rights at an appeal hearing, which will be completed by September 15, 1994 and made available to all English and Spanish speaking LEP claimants.

4.4 ESD is currently distributing a Request For Information (RFI) asking for vendor proposals for taped oral translations of hearing decisions, which could be mailed to the LEP hearing

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905 Plum Street, Building 3
PO BOX 40110
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claimant or played over the telephone, in lieu of calling the interpreter.

4.5 While the interim measures in paragraphs 4.1 - 4.2 are being taken, the parties shall continue discussions with respect to development of further procedures for insuring that LEP claimants receive adequate translations of their hearing decisions.

5. AGENCY OVERSIGHT

5.1 The ESD Commissioner will designate effective July 1, 1994 two key staff positions, one in UI and one in Employment and Training, to oversee and be the primary points of contact to insure that translated Forms, Notices, Pleadings, Buckslips and Order Cover Sheets are available in local ESD and OAH offices, and that procedures for provision of translated notices are uniform within ESD and OAH. These persons shall bring additional issues and problems to the attention of the ESD Deputy Commissioner.

6. GOOD CAUSE FOR LATE FILING

6.1 ESD shall propose amendments to its regulations to specifically identify limited English proficiency as a factor in determining the excusability prong of the test for good cause. This language shall substantially conform to the following: "In determining the excusability of a delay in filing administrative appeals or petitions, the ALJ and Commissioner shall take into account any physical, mental, educational, or linguistic limitations of the individual (including any lack of facility with

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905 Plum Street, Building 3
PO BOX 40110
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(206) 753-2702

the English language) which prevented the timely filing." Plaintiffs agree to dismiss their claims related to "good cause" on condition that the final rule substantially conforms to this language.

7. TIMELINES

7.1 The timelines set forth in this agreement are outer timelines. The Employment Security Department and OAH has already begun and shall complete translations of Forms, Procedural Notices, Pleadings, Expanded Buck Slips and Order Cover Sheets as soon as possible. As soon as translations are complete, ESD and OAH shall put the translated Forms, Procedural Notices, Pleadings, Expanded Buck Slips and Order Cover Sheets into use in their offices.

8. MODIFICATION

8.1 The parties agree to continue to consult with each other for purposes of providing appropriate services and securing the rights of LEP claimants. Specifically, they agree to consult with each other by March 31st of each year to discuss any necessary modifications to this agreement and to share information regarding the implementation of this agreement. Should negotiations over modifications to this agreement reach impasse, the parties agree to submit their differences to non-binding mediation, before a mediator selected by the parties.

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905 Plum Street, Building 3
PO BOX 40110
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(206) 753-2702

9. NOTICE TO THE PUTATIVE CLASS

9.1 The parties agree that notice will be given to members of the putative class in the following manner.

A handout conforming to Exhibits F and G will be given to all identified Tier I and Tier II LEP claimants at the JSC offices, and at or before the hearing to all identified Tier I and Tier II LEP claimants. A mailer substantially similar to Exhibit F will be sent to all identified Tier I Spanish speaking claimants who filed claims after January 1, 1994. The mailer will be mailed within ninety (90) days of the date of this Agreement. The handouts will be available at JSC's and Hearings within ninety (90) days of the date of this Agreement, and will be distributed for a period of one (1) year thereafter at JSC's, and for six (6) months thereafter at or before hearings.

10. RESERVATION

10.1 The parties have not reached agreement on whether written translations of OAH Initial Orders and commissioner's review decisions are required by law. Plaintiff Nava expressly reserves this claim from this settlement agreement.

11. AUTOMATIC DISMISSAL

This agreement shall be submitted to Thurston County Superior Court for approval of the substantive agreement and notice to the class. This case shall be automatically dismissed on _____, 1995, (thirteen months from the date of approval of the order and agreement) if each of the following conditions are met:

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PO BOX 40110
Olympia, WA 98504-0110
(206) 753-2702

11.1 The Respondents have filed with the Thurston County Superior Court, within one year from the date of approval of the order and agreement, a certification that they have substantially complied with the requirements of the agreement, and have adopted a regulation on "good cause" which substantially conforms to the language set forth in section 6.1 of this agreement; and

11.2 Thirty days have passed since the submission of the certification of compliance and plaintiff has not filed any objection to automatic dismissal.

DATED this _____ day of _____, 1994.

EVERGREEN LEGAL SERVICES

Rebecca Smith

REBECCA A. SMITH (WSBA 12834)
ELIZABETH SCHOTT (WSBA 8985)
Attorneys for Plaintiff

MICHAEL E. GRANT (WSBA 13813)
Assistant Attorney General
Attorney for Defendants

ATTORNEY GENERAL OF WASHINGTON
Licensing & Employment Security Division
905 Plum Street, Building 3
PO BOX 40110
Olympia, WA 98504-0110
(206) 753-2702

SUPERIOR COURT
BETTY J. GOULD
THURSTON COUNTY CLERK

IN THE SUPERIOR COURT STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

MANUELA NAVA, Plaintiff, v. STATE OF WASHINGTON EMPLOYMENT SECURITY DEPARTMENT, et. al., Defendants.	NO. 93-2-00654-1 AGREED ORDER APPROVING SETTLEMENT AND NOTICE TO THE CLASS

This matter having come on for hearing before the undersigned Judge and the court having reviewed correspondence from the parties' attorneys and the parties' settlement agreement,

IT IS HEREBY ORDERED:

1. The court approves the settlement agreement submitted by the parties and their proposed class notice.

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EVERGREEN LEGAL SERVICES
SNOHOMISH COUNTY OFFICE
401 CENTRAL BUILDING
1721 HEWITT AVENUE
EVERETT, WASHINGTON 98201
(206) 259-3421

2. This action shall be automatically dismissed on _____ 1995, (thirteen months from the date of approval of settlement) after the conditions stated in Paragraph 11 of the Settlement Agreement have been met.

Dated this 3 day of August of 1994.

RICHARD A. STROPHY

Presiding Judge
Thurston County Superior Court

Submitted by:

EVERGREEN LEGAL SERVICES

Rebecca Smith

Rebecca A. Smith
WSBA # 12834
Elizabeth Schott
WSBA #8985
Attorneys for Plaintiff

Approved by:

Michael Grant
WSBA # 13813
Senior Assistant Attorney General
Attorney for Defendants

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EVERGREEN LEGAL SERVICES
SNOHOMISH COUNTY OFFICE
401 CENTRAL BUILDING
1721 HEWITT AVENUE
EVERETT, WASHINGTON 98201
(206) 259-7421

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES

The enclosed document is important because it affects your claim for unemployment insurance. If you do not understand this document, immediately contact your Job Service Center or the Office of Administrative Hearings. An interpreter will be provided at no cost to you.

Languages: Amharic, Arabic, Cambodian, Chinese (Simplified), Chinese (Traditional), Czech, French, German, Greek

መምርያ ለአማርኛ ተናጋሪዎች

አማርኛ (Amharic)

ከዚህ ተደይዞ የሚደገፍት ማስረጃ ጽሑፍ ስራ ስለ ለሌኝ ኢንሹራንስ ማግኘት መብቴ ነው ለሚሉት ስለ ሚነካም ት ጽሕፉ በጣም አስፈላጊ ነው ። ይህ ጽሑፍ አይገባኝም የሚሉ ከሆነ: ወዲያውኑ ለጆብ ሰርቪስ ሴንተር (Job Service Center) ወይም አሬስ ኦቭ አድሚኒስትሬቲቭ ሂሪያግስ (Office of Administrative Hearings) ደመለ ከቱ ። የሚተረጉምሉት ሰው በመስሪደ ቤቱ ኪሳራ ይቀርብሉታል ።

(Arabic)

تعليمات لمن لا يتكلمون اللغة الإنجليزية

ان الوثيقة المرفقة مهمة لانها تؤثر على طلبك للحصول على دفعات تأمين للعاطلين عن العمل. فاذا لم يكن بامكانك فهم هذه الوثيقة، فيجب عليك رأسا الإتصال بمركز خدمات الوظائف أو بمكتب التحقيق الإداري.

ខ្មែរ (Cambodian)

សេចក្តីណែនាំសំរាប់អ្នកមិនចេះនិយាយភាសាអង់គ្លេស

ឯកសារដែលភ្ជាប់មកជាមួយនេះ វាមានសារៈសំខាន់ណាស់ព្រោះវាប៉ះពាល់ទៅលើការស្នើទាមទារប្រាក់សំរាប់ពេលអត់ការងារធ្វើ។ បើអ្នកមិនយល់ន័យក្នុងឯកសារនេះ អ្នកត្រូវតែទាក់ទងមកមជ្ឈមណ្ឌលសេវាការងារធ្វើ ឬការិយាល័យសវនាការវិផ្ទុកអតិជាលរ។ គេនឹងមានអ្នកបកប្រែភាសាសំរាប់ជួយអ្នកដោយមិនយកថ្លៃឈ្នួលអ៊ីចឹងឡើយ។

Chinese / 中文

对讲中文者之指示

附上的文件是非常重要的，因为它会影响到您对失业保险金的申请。如果您不看懂此份文件，应立刻与职业服务中心 (Job Service Center) 或行政听訟办事处 (Office of Administrative Hearings) 联络，他们将免费为您安排一位翻译员。

中文（Chinese）

給中文使用者的指示

在此所附的通知書是非常重要的，因爲它會影響您失業保險金的申請。如果您不瞭解這份通知，可與您當地的就業服務中心或行政聽證處聯繫。需要的話，我們能免費安排一位翻譯員爲您服務。

"EXHIBIT A"

ČESKÝ JAZYK CZECH

INSTRUKCE PRO STRANY MLUVÍCÍ ČESKY

Přiložený dokument je důležitý, neboť se týká vašeho nároku na pojištění v nezaměstnanosti. Jestliže máte problém s porozuměním tomuto dokumentu, spojte se okamžitě se svým střediskem pracovních služeb (Job Service Center) nebo s úřadem správního vyšetřování (the Office of Administrative Hearings). Zdarma vám bude k dispozici tlumočník.

(Farsi)

فارسی

اطلاعات برای افرادی که به زبان انگلیسی صحبت نمیکنند.

مدارک ضمیمه شده مهم است چون در این ادعای شما برای بیمه غرامت بیکاری اثر میگذارد. اگر شما متوجه این مدرک نمیشوید، فوراً با مرکز خدمات کاری یا با دفتر اداره استماع دادرسی تماس پیدا کنید. یک مترجم بدون خرج برای شما تهیه خواهد شد.

FRANÇAIS - (French)

INSTRUCTIONS POUR CEUX QUI PARLENT FRANÇAIS

Le document ci-joint est important car il affecte votre revendication d'assuran - chômage.Si vous ne comprenez pas les informations contenues dans ce document, veuillez contacter immédiatement votre Centre d'emploi (Job Service Center) ou le bureau des audiences administratives (Office of Administrative Hearings).Un interprète vousassistera gratuitement.

GERMAN/DEUTSCH

ANLEITUNG FÜR DEUTSCHSPRACHIGE PARTEIEN

Das beiliegende Dokument ist von Wichtigkeit, denn es betrifft Ihren Anspruch auf Arbeitslosenversicherung. Sollten Sie dieses Dokument nicht verstehen, wenden Sie sich bitte unverzüglich an Ihr Job Service Center (Zentrum für Arbeitsangelegenheiten) oder an das Office of Administrative Hearings (Amt für Anhörungen in Verwaltungsangelegenheiten). Ein Dolmetscher wird Ihnen kostenlos zur Verfügung gestellt.

GREEK/Ελληνικά

ΟΔΗΓΙΕΣ ΓΙΑ ΟΣΟΥΣ ΔΕ ΜΙΛΟΥΝ ΤΗΝ ΑΓΓΛΙΚΗ ΓΛΩΣΣΑ

Το συναπτόμενο έγγραφο είαι σημαντικό γιατί από αυτό εξαρτάται η απαίτησή σας για ασφάλεια ανεργίας. Αν δε καταλαβαίνετε το περιεχόμενο του, επικοινωνήστε αμέσως με το Κέντρο Υπηρεσίας Εργασίας (Τζομπ Σέρβις Σέντερ) ή το Γραφείο Διοικητικών Ακροάσεων (Οφις οφ Αντμινιστρέϊτιβ Χήρινγκς). Θα σας παραχωρηθεί δωρεά διερμηνέας.

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES

The enclosed document is important because it affects your claim for unemployment insurance. If you do not understand this document, immediately contact your Job Service Center or the Office of Administrative Hearings. An interpreter will be provided at no cost to you.

Languages: Hebrew, Hindi, Hmong, Hungarian, Ilocano, Italian, Japanese, Korean, Laotian, Polish

HEBREW

הוראה לדוברי עברית

דאוה לדוברי עברית המסמך המצורף חשוב משום שיש לו השפעה על זכותך לביטוח אבטלה.
אם אינך מבין /ה מסמך זה, עליך להתקשר מיד עם המרכז שסיפק לך את העבודה או עם
המשרד המטפל נערעורים מתרגם יועמד לרשותך בחינם.

הוראה לדוברי עברית

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לרשותך בחינם.

हिन्दी (Hindi)

अंग्रेजी भाषा न बोलने वालों के लिये हिदायतें

साथ में भेजा गया कागज़ात बहुत जरूरी काम के लिये हैं, क्योंकि आपको नौकरी न करने के कारण जो इनक्युअरअन्स के कलेम करने पर पैसे मिलेंगे उन पर प्रभाव डालते हैं। अगर आपको इन कागज़ात पर लिखा हुआ समझ नहीं आता, तो उसी समय आप अपने जाब सरविस सैन्टर या आफिस आफ अडीमिनिसट्रेटिव वालों के साथ मिलें या बातकरें। आपके खर्चे के बिना, आपकी अपनी बोलने वाली भाषा में बोलने वाले व्यक्ति का इन्तजाम किया जायेगा।

HMONG- LUG MOOB

KEV QHA UA RUA COV KWS HAS TAU LUG MOOB

Cov ntaubntawv kws tuaj nrug nuav tseemceeb heev vim has tas yuav muaj feem nrig txug rua kev kws koj thov kuas muaj paabkaasphais rua lub caij kws poob num ntawm. Yog has tas koj tsi totaub te ntaubntawv nuav tes, hu kag rua lub chaw kws nrav num rua koj los lub chaw uanum txug rua saab kws tsi txau sab es thov has nuav (Job Service Center or Office of administrative Hearings). Yuav muaj tug txhais lug kws paab txhais dlawb rua koj.

magyar HUNGARIAN

A mellékelt dokumentum azét fontos, mert befolyásolja az Ön munkanélküli biztosításra való igényét. Amennyiben nem érti ezt a dokumentumot, azonnal vegye fel a kapcsolatot az illetékes Job Service Centerrel, vagy az Office of Administrative Hearings-szel. Tolmácsot fognak az Ön rendelkezésére bocsátani, ami Önnek semmibe sem fog kerülni.

ILOCANO

INSTRUKSYON PARA CADAGUITI SAAN NGA MAKA-SARITA TI SAO NGA INGLES

Daytoy dokumento nga maited cadacayo ket importante ta maka-afektar ta dawdawaten yo nga seguro maypanggep ta awan a pannaca-trabajo yo. No saan yo nga maawatan daytoy a dokumento, insiguida yo nga ayaban dayta Job Services Center oenno dayta Office of Administrative Hearings. Adda maited cadacayo nga ag-interprete nga awan bay-bayadan yo.

(Italian)

ISTRUZIONI PER PERSONE DI LINGUA ITALIANA

If presente allegato e; molto importante dal momento che incide sul Suo reclamo per l'assicurazione sulla disoccupazione. Se non riesce a comprendere questo documento, contatti Immediatamente il Suo Centro di servizi sul lavoro oppure Il Dipartimento delle udienze amministrative. Un interprete verraæ fornito gratuitamente.

(Japanese)

日本語を母国語とする方達への指示

同封したのはあなたが失業保険を請求するにあたり重要な書類です。この書類を理解出来ない場合、ただちに Job Service Center または Office of Administrative Hearing までご連絡下さい。

KOREAN

한국어를 사용하시는 분들을 위한 안내사항

동봉한 서류는 귀하의 실직수당 신청에 영향을 끼치는 것이므로 중요한 것입니다. 이 서류를 이해하지 못 하시면, 즉시 귀하 직업봉사 쎈터(Job Service Center) 혹은 행정 청문회 사무소(Office of Administrative Hearings)로 연락하시기 바랍니다. 통역관은 무료로 제공합니다.

ພາສາລາວ (Laotian) ຄຳແນະນຳໃຫ້ສຳລັບ ໝວດທີ່ປາກພາສາອັງກິດ ບໍ່ໄດ້

ເອກກະສານທີ່ສົ່ງມາໃຫ້ພັອມນີ້ແມ່ນເປັນສິ່ງສຳຄັນ ບັອນວ່ານັນຈະເປັນພົນກະທົບກະເທືອນໃສ່ສຳລັບການຮ້ອງຂໍ່ເອົາ ເງິນປະກັນພັນວ່າງງານຂອງທ່ານ. ຖ້າຫາກວ່າທ່ານບໍ່ເຂົ້າໃຈກັບເອກກະສານນີ້, ໃຫ້ຕິດຕໍ່ຫາ ສູນການຊ່ວບຊອກຫາງານ ຂອງທ່ານ ທັນທີ ຫລື ຫ້ອງການປົກຄອງການຟັງຄວານເປັນທັນ. ນາຍພາສາ ຈະຖືກຈັດຫາໃຫ້ໂດຍທ່ານຈະບໍ່ໄດ້ເສັຽຄ່າ.

Język polski- (Polish)

WSKAZÓWKI DLA OSÓB MÓWIĄCYCH PO POLSKU

Załączony dokument jest ważny ponieważ ma wpływ na Wasze roszczenie do świadczeń ubezpieczenia dla bezrobotnych. Jeśli nie rozumiecie Państwo tego dokumentu natychmiast skontaktujcie się z Biurem Pośrednictwa Pracy -Job Service Center lub z Biurem Przesłuchań Administracyjnych - Office of Administrative Hearings. Zapewnimy Wam tłumacza bez jakichkolwiek kosztów.

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES

The enclosed document is important because it affects your claim for unemployment insurance. If you do not understand this document, immediately contact your Job Service Center or the Office of Administrative Hearings. An interpreter will be provided at no cost to you.

Languages: Portugese, Punjabi, Romanian, Russian, Serbo-Croation, Slovak, Samoan, Somali, Spanish

PORTUGUÊS (Portuguese)

INSTRUÇÕES PARA INDIVÍDUOS CUJO IDIOMA É O PORTUGUÊS

O documento em anexo é importante, porque ele afeta seu pedido de compensação de seguro de desemprego. Se você não entender o que diz este documento, contate imediatamente o "Job Service Center" (Centro de Serviços de Emprego) ou o "Office of Administrative Hearings" (Escritório de Audiências Administrativas). Será providenciado(a) um(a) intérprete para você, sem qualquer custo.

ਪੰਜਾਬੀ (Punjabi)

ਅੰਗ੍ਰੇਜੀ ਭਾਸ਼ਾ ਨ ਬੋਲਣ ਵਾਲਿਆਂ ਲਈ ਹਿਦਾਇਤਾਂ

ਨਾਲ ਭੇਜ਼ਿਆ ਗਿਆ ਕਾਗਜ਼ਾਤ ਬਹੁਤ ਜ਼ਰੂਰੀ ਕੰਮ ਵਾਲਾ ਹੈ, ਕਿਉਂਕਿ ਇਹ ਤੁਹਾਨੂੰ ਨ ਨੌਕਰੀ ਕਰਨ ਦੇ ਕਾਰਣ ਜਿਹੜੇ ਇਨਸ਼ੁਅਰਅੰਸ ਦੇ ਕਲੇਮ ਕਰਨ ਤੇ ਪੈਸੇ ਮਿਲਨਗੇ, ਉਸਤੇ ਅਸਰ ਕਰਦੇ ਹਨ। ਅਗਰ ਤੁਹਾਨੂੰ ਇਨ੍ਹਾ ਕਾਗਜ਼ਾਤ ਤੇ ਲਿਖਿਆ ਸਮਝ ਨ ਆਵੇ ਤਾਂ ਤੁਸੀ ਉਸੇ ਵੇਲੇ ਆਪਣੇ ਜੌਬ ਸਰਵਿਸ ਸੈਂਨਟਰ ਜ਼ਾਂ ਆਫਿਸ ਆਫ ਅੰਡੀਮਨਇਸਟ੍ਰੇਟਿਵ ਹੀਅਰਇੰਗਜ਼ ਵਾਲਿਆਂ ਨਾਲ ਮਿਲੋ ਜ਼ਾਂ ਗਲ ਕਰੋ। ਤੁਹਾਡੀ ਜ਼ੁਬਾਨ ਵਿਚ ਬੋਲਣ ਵਾਲਾ ਵਿਅਕਤੀ ਬੇਗਾਰ ਤੁਹਾਡੇ ਕਿਸੇ ਵੀ ਖਰਚੇ ਦੇ ਦਿੱਤਾ ਜਾਵੇਗਾ।

LIMBA ROMÂNÂ (Romanian)

INSTRUCŢIUNI PENTRU PERSOANE CARE VORBESC LIMBA ROMÂNÂ

Documentul ataşat este important pentru că influenţează cererea dv. pentru asigurare de şomaj. Dacă nu înţelegeţi acest document, luaţi legătura imediat cu centrul dv. de muncă (Job Service Center) sau cu oficiul de audienţă administrativă (Office of Administrative Hearings). Vom furniza un interpret în mod gratuit.

RUSSIAN

ИНСТРУКЦИИ ДЛЯ ЛИЦ, ГОВОРЯЩИХ ПО-РУССКИ

Прилагаемый документ очень важен, потому что он влияет на ваш иск о пособии по безработице. Если вы не понимаете этого документа, немедленно свяжитесь со своим Центром по Трудоустройству или Оффисом Административных Слушаний. Вам будет бесплатно предоставлен переводчик.

SERBO-CROATION

UPUTSTVA ZA OSOBE KOJE NE GOVORE ENGLESKI

Priloženi dokumenat je važan zato što utiče na vaš zahtev za osiguranje za nezaposlene. Ako ne razumete ovaj dokumenat, odmah stupite u kontakt sa uredom za zapošl javanje ili uredom za administrativna saslušanja. Prevodilac će Vam biti obezbeden besplatno.

Slovak - Slovensky

INSTRUKCIE PRE SLOVENSKY HOVORIACE STRANY

Pripojený doklad je dôležîty, pretože pôsobí na vás nárok na poistenie protî nezamestnanosti. V prípade, že neporozumiete tento doklad, spojte sa ihneď so svojim Pracovným Úradom (Job Service Center) alebo Úradom pre Administrativne Riadenia (Office of Administrative Hearings). Dostanete bezplatne tlmočnika.

(Samoan)

I le amataga o faamatalaga taitasi, ia faailoa mai le igoa o le gagana (gagana Peretania ma le gagana mana'omia). Ia faaulutala parakalafa taitasi (FAASINOGA MO GAGANA 'ESE MAI LE FAAPERETANIA) i le gagana o lo'o mana'omia. Ia suia le upu "Non-English" i le gagana o lo'o mana'omia.

SOOMAALI, SOMALI.

Tusmooyinka Cidda aan Ku hadal Af-Ingiriiska

Warqadda halkan ku lifaaqan aad ayey muhiim u tahay Sababtoo ah waxay wax ka beddeli karta caymiska Shaqo La'aanta ee aad ku dacwoonaysid. Haddii aad fahmi weydid warqaddan, La Soo xidhiidh xafiiska hawlaha shaqada (Job Service Center) ama xafiiska maamulka dacwad (Office of Administrative Hearings. qof turjubaana ayaa lagu qaban doona khavash La'aan.

ESPAÑOL (Spanish):

INSTRUCCIONES PARA PERSONAS QUE HABLAN ESPAÑOL

El documento adjunto es muy importante porque afecta su reclamo para desempleo. Si Ud. no entiende este documento, comuníquese con su Centro de Servicio de Empleo o la Oficina de Audiencias Administrativas inmediatamente. Le proveeremos un interprete gratis.

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES

The enclosed document is important because it affects your claim for unemployment insurance. If you do not understand this document, immediately contact your Job Service Center or the Office of Administrative Hearings. An interpreter will be provided at no cost to you.

Languages: Tagalog, Thai, Tigrigna, Tongan, Ukranian, Urdu, Vietnamese, Visayan

TAGALOG

INSTRUKSIYON PARA SA MGA HINDI MAKAPAG-SALITA NG WIKANG INGLES

Ang nakalahok na dokumento ay mahalaga dahil ito'y makaka-apekto sa inyong paghiling ng seguro tungkol sa inyong walang-pag-trabaho. Kung hindi ninyo maunawaan ang dokumentong ito, agad na tawagan ang inyong Job Service Center o ang Office of Administrative Hearings. Isang tagapag-salin ang ipagkakaloob sa inyo na hindi niyo kailangan bayaran.

ไทย (Thai)

คำแนะนำสำหรับผู้พูดภาษาไทย

เอกสารที่แนบมาให้สำคัญมากเนื่องจากเป็นผลต่อการร้องขอค่าประกันการว่างงาน. ถ้าท่านไม่เข้าใจเอกสารนี้, ติดต่อไปที่ศูนย์การบริการจัดหางานหรือสำนักงานบริหารการฟังความยุติธรรม.จะหาล่ามให้ฟรี.

ሓበረታ ንትግርኛ ተዛረብቲ

ትግርኛ (Tigrigna)

ምስ እዚ ተተሓሒዙ ኣትረኽቦ ሰነድ ወይ ጽሑፍ ስራሕ የብለይን እሞ ኢንሹራንስ ይግባእኒ እዩ ስለ ስትብሉ ጉዳይ: እዚ ሰነድ ኣዝዩ ኣድላይ እዩ= እንተድኣ እዚ ሰነድ ኣይርድኣንን እዩ ስትብል ከይንካ: ቀልጢፍካ ናብ ጆብ ሰርቪስ ሰንተር (Job Service Center) ወይ ናብ ኦፌስ ኦቭ ኣድሚኒስትሬቲቭ ሂሪንግስ (Office of Administrative Hearings) ኣመልክት= በዚ መስፈደ ቢት እዚ ዝኸፈል ኣስተርጓሚ ሰብ ከቕርበልካ እዩ=

(TONGAN)

TU'UTU'UNI KIAKINAUTOLU 'OKU 'IKAI LEA FAKAPALANGI

Ko e pepa 'oku 'oatu heni 'oku mahu'inga ko e 'uhi 'oku 'iai 'ae fakamatala ai 'oku kau ki ho'c tohi kole tokoni fakapa'anga mei he 'inisua kia kinautolu 'oku 'osi mole 'enau ngaue (unemployment). Kapau 'oku 'ikai mahino 'ae fakamatala/pepa ko 'eni kia koe, fetu'utaki 'ihe vave taha ki he 'ofisi Job Service Center pe koe 'ofisi Office of Administrative Hearings. Tenau ma'u ma ha taha ta'e totongi ke fakatonu lea.

UKRANIAN

ІНСТРУКЦІЇ ДЛЯ ОСІБ, ЯКІ РОЗМОВЛЯЮТЬ ПО-УКРАЇНСЬКИ

Прикладений документ дуже важливий, тому що він впливає на вашу допомогу по безробіттю. Якщо ви не розумієте цього документу, негайно зв'яжіться з своїм Офісом по Працевлаштуванню або Офісом Адміністративних Слухань. Вам буде безкоштовно проваджений перекладач.

(Urdu)

انگریزی نہ بولنے والے لوگوں کیلئے ہدایتیں

URDU - اردو :- ساتھ بھیجے گئے کاغذات آپکے لئے ضروری ہیں کیونکہ یہ آپکی بیکاری کی انشورنس کی رقم کی مانگ پر اثر ڈالتے ہیں۔ اگر آپکو ان کی تحریر سمجھ نہ آئے تو فوراً آپ جوب سروس سینٹر (کام دلانے والے سینٹر) یا ایڈمنسٹریٹو ہیرنگ کے دفتر کو ملیں۔ آپکے لئے آپکی زبان میں بولنے والے (انٹرپریٹر) کا آپکی طرف سے بغیر کسی خرچے پر انتظام کیا جائیگا۔

TIẾNG VIỆT (Vietnamese) **CHỈ DẪN CHO NGƯỜI NÓI TIẾNG VIỆT**

Tài liệu dính kèm quan trọng vì có ảnh hưởng đến đơn xin tiền bảo hiểm thất nghiệp của quý vị. Nếu quý vị không hiểu tài liệu này, xin liên lạc ngay với Trung Tâm Tìm Việc (Job Service Center) hoặc với Phòng Đặc Trách Điều Trần Hành Chánh (Office of Administrative Hearings). Quý vị sẽ có một thông dịch viên mà không phải trả chi phí.

VISAYAN

MGA PAHIMATNGON ALANG SA MGA PARTIDO NGA MAKASULTI UG VISAYAN

Ang gilakip nga dokumento mahinungdanon tungod kay kini moapekto sa imong pag-angkon alang sa paniguro sa pagkawala'y trabaho. Kon ikaw wala makasabot niining maong dokumento, ipahabalo dayon sa imong Sentro sa Serbisyo sa Panarbaho (Job Service Center) o Opisina sa Kagamhanan sa mga Bista (Office of Administrative Hearings). Ang magsasaysay ihatag kanimo nga wala'y bayad.

SPANISH / ESPAÑO

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES
INSTRUCCIONES PARA PERSONAS QUE NO HABLAN EL INGLÉS

The enclosed document is important because it affects your claim for unemployment insurance. If you do not understand this document, immediately contact your job service center or the Office of Administrative Hearings. An interpreter will be provided at no cost to you.

El documento adjunto es muy importante porque afecta su petición para seguro de desempleo. Si no comprende este documento, contacte inmediatamente su centro de servicios de empleo, o la Oficina de Audiencias Administrativas. Se proporcionará intérprete sin costo alguno para Ud.

☐ The enclosed document is a Notice of Hearing/Notice of Telephone Hearing that affects your claim. This notice sets forth the date, time and place of hearing.

El documento adjunto es un Aviso de Audiencia/Aviso de Audiencia Telefónica que afecta su petición. Este aviso establece la fecha, hora y lugar de la audiencia.

☐ The enclosed document is a notice that your hearing has been postponed or continued to a different date or time. You will be sent a new notice of hearing setting forth the new date, time and place of hearing.

El documento adjunto es para avisarle que su audiencia ha sido suspendida o se ha cambiado para otra fecha u hora. Se le enviará un nuevo aviso de audiencia indicando la nueva fecha, hora y lugar de la audiencia.

☐ The enclosed document is a rescheduled Notice of Hearing/Notice of Telephone Hearing that affects your claim. This notice sets forth the date, time and place of hearing.

El documento adjunto es un Aviso de Audiencia/Aviso de Audiencia Telefónica que ha sido fijada para otra fecha y que afecta su petición. Este aviso establece la fecha, hora y lugar de la audiencia.

"EXHIBIT B"

SPANISH / ESPAÑOL

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES
INSTRUCCIONES PARA PERSONAS QUE NO HABLAN EL INGLÉS

☐ The enclosed document is a Petition for Review that affects your claim. Immediately contact the interpreter whose name and telephone number appear on the face of the acknowledged Petition for Review form to have it translated. As the nonpetitioning party you may file a reply to the Petition for Review. The reply must be mailed or delivered to and received by the Commissioner's Review Office, Post Off ice Box 9046, Olympia, WA 98507-9046, within fifteen (15) days of the date of acknowledgment that appears on the face of the Petition for Review form. Ask the interpreter to read your specific reply rights on the reverse side of the Petition for Review form to you. If you need help translating your reply into English, immediately contact the interpreter.

El documento adjunto es una Petición de Revisión que afecta su petición para seguro de desempleo. Contacte inmediatamente al/la intérprete cuyo nombre y número de teléfono aparecen en la parte frente (cara), donde se acusa recibo de la Petición de Revisión, para que esta persona le traduzca el documento. Como la parte no solicitante de esta Revisión, Ud. puede contestarla. Debe enviar su contestación por correo o presentarla en persona para que la Oficina del Comisionado de Revisión la reciba dentro de los quince (15) días de la fecha en que se acusa recibo en el formulario de Petición de Revisión. Pídale al/la intérprete que le lea sus derechos específicos para hacer esta contestación y que aparecen al reverso del formulario Petición de Revisión que se le envió a Ud. Cuando tiene necesidad ayudar traduir su enviar en Inglés, contacte inmediatamente al/la intérprete.

"EXHIBIT C"

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES
INSTRUCCIONES PARA PERSONAS QUE NO HABLAN EL INGLÉS

The enclosed document is important because it affects your claim for unemployment insurance. If you do not understand this document, immediately contact your interpreter, your job service center or the Office of Administrative Hearings.

El documento adjunto es muy importante porque afecta su petición para seguro de desempleo. Si no comprende este documento, contacte inmediatamente su intérprete, su centro de servicios de empleo, o la Oficina de Audiencias Administrativas.

☐ The enclosed document is an initial order of the Office of Administrative Hearings that affects your claim. This initial order is final unless a Petition for Review is filed in person at a job service center of the Employment Security Department or postmarked and mailed to Employment Security Department, Agency Records Center, Post Office Box 9046, Olympia, Washington 98507-9046 within thirty (30) days of the date of the initial order. All arguments in support of the Petition for Review must be attached to and submitted with the Petition for Review. A Petition for Review need not be filed on an official form, but such a form may be obtained from a job service center of the Employment Security Department. If you need help translating your Petition for Review into English, immediately contact the interpreter.

El documento adjunto es una decisión primero de la Oficina de Audiencias Administrativas que afecta su petición. Esta decisión primero es final a menos que se presente una Petición de Revisión en persona al centro de servicios de empleo del Departamento de Seguridad en el Empleo, o que sea franqueada y enviada por correo a Employment Security Department, Agency Records Center, Post Office Box 9046, Olympia, Washington 98507-9046 dentro de los treinta (30) días después de la fecha de la decisión primero. Se debe adjuntar y presentar junto con la Petición de Revisión, todo documento en apoyo de esta Petición de Revisión. Aunque no es necesario presentar una Petición de Revisión en un formulario (forma) oficial, se puede obtener dicho formulario en un centro de servicios de empleo del Departamento de Seguridad en el Empleo. Cuando tiene necesidad ayudar para traduir su Petición de Revisión en Inglés, contacte inmediatamente al/la intérprete.

SPANISH / ESPAÑOL

INSTRUCTIONS FOR NON-ENGLISH SPEAKING PARTIES
INSTRUCCIONES PARA PERSONAS QUE NO HABLAN EL INGLÉS

☐ **The enclosed document is a Decision of Commissioner of the Employment Security Department that affects your claim. Immediately contact the interpreter whose name and telephone number appear on the cover letter to the Decision of Commissioner to have it translated. If you disagree with the Decision of Commissioner, you must either: (1) file a Petition for Reconsideration within ten (10) days from the date on the Decision of Commissioner, and/or (2) file an appeal directly with the superior court within thirty (30) days from the date on the Decision of Commissioner. Ask the interpreter to read your specific reconsideration and superior court appeal rights to you. If you need help translating your Petition for Reconsideration into English, immediately contact the interpreter.**

El documento adjunto es una Decisión del Comisionado del Departamento de Seguridad en el Empleo que afecta su petición. Contacte inmediatamente al/la intérprete cuyo nombre y número de teléfono aparecen en la carta de introducción que acompaña la Decisión del Comisionado, para que esta persona le traduzca el documento. Si no está de acuerdo con la Decisión del Comisionado Ud. debe tomar una de las siguientes acciones: (1) Presentar dentro de diez (10) días de la fecha de la Decisión del Comisionado, una Petición para Reconsideración de la Decisión, y/o (2) presentar una apelación directamente a la corte superior dentro de treinta (30) días después de la fecha de la Decisión del Comisionado. Pídale al/la intérprete que le lea sus derechos específicos para pedir que se reconsidere su decisión, y sus derechos para procesar la apelación por medio de la corte. Cuando tiene necesidad ayudar para traduir su Petición para Reconsideración de la Decisión en Inglés, contacte inmediatamente al/la intérprete.

☐ **The enclosed document is an Order Denying Petition for Reconsideration. Immediate contact the interpreter whose name and telephone number appear on the cover letter to the Order Denying Petition for Reconsideration to have it translated. If you disagree with the Order Denying Petition for Reconsideration, you must file an appeal directly with the superior court within thirty (30) days from the date on the Order Denying Petition for Reconsideration. Ask the interpreter to read your specific superior court appeal rights to you.**

El documento adjunto es una Orden Negando la Petición para Reconsideración. Contacte inmediatamente el/la intérprete cuyo nombre y número de teléfono aparecen en la carta de introducción que acompaña la Orden Negando la Petición para Reconsideración, para que esta persona le traduzca el documento. Si no está de acuerdo con esta Orden Negando la Petición para Reconsideración, debe entablar una apelación directamente en la corte superior dentro de treinta (30) días de la fecha de la Orden Negando la Petición para Reconsideración. Pídale al/la intérprete que le lea sus derechos específicos con respecto a una apelación por medio de la corte superior.

☐ **The enclosed document is an Order Dismissing Petition for Reconsideration. Immediately contact the interpreter whose name and telephone number appear on the Order Dismissing Petition for Reconsideration to have it translated. If you disagree with the Order Dismissing Petition for Reconsideration, you must file an appeal directly with the superior court within thirty (30) days from the date on the Decision of Commissioner which was previously mailed to you. Ask the interpreter to read your specific superior court appeal rights to you.**

El documento adjunto es una Orden Desechando la Petición para Reconsideración. Contacte inmediatamente el/la intérprete cuyo nombre y número de teléfono aparecen en la Orden Desechando la Petición para Reconsideración,. para que esta persona le traduzca el documento. Si no está de acuerdo con la Orden Desechando la Petición para Reconsideración, debe entablar una apelación directamente en la corte superior dentro de treinta (30) días después de la fecha de la Decisión Comisionado que se le envió previamente. Pídale al/la intérprete que le lea sus derechos específicos con respecto a una apelación por medio de la corte superior.

"EXHIBIT E"

NOTICE TO LEP CLAIMANTS (SPANISH)

MORE BILINGUAL SERVICES TO BE OFFERED.

As a limited English speaking claimant, you will shortly be receiving more notices in your language. This is the result of an agreement reached between a client of Evergreen Legal Services and the Employment Security Department and Office of Administrative Hearings.

Under this agreement, you will get hearing notices in Spanish. You will also get forms in Spanish that will tell you your hearing rights, including your right to appeal.

The Employment Security Department is also developing a video tape which explains your rights at your unemployment compensation hearing.

If you are not receiving notices in Spanish, please contact your JSC.

"EXHIBIT F"

NOTICE TO LEP CLAIMANT

EXPANDED BILINGUAL SERVICES TO BE OFFERED

As a limited English speaking claimant, you will shortly be receiving more notices in your native language. This is the result of an agreement between a client of Evergreen Legal Services and the Employment Security Department and Office of Administrative Hearings.

At first, you will receive a cover sheet in your language that will explain the attached English language notice. Later, you will begin receiving hearing notices in your own language. You will also get forms in your own language that will tell you your hearing rights, including appeal rights.

"EXHIBIT G"

APPENDIX B

STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
Post Office Box 44892 Olympia, Washington 98504-4892

December 2006

To: All Self Insured Employers and Third Party Administrators

From: Jean Vanek, Self Insurance Program Manager

Subject: Clarification of April 2006 changes to Chapter 296-15 WAC

The April 1, 2006, rule changes have been in effect for several months, and the department has received several requests for clarification of certain requirements:

- New requirements for submission of Employability Assessment Reports;
- Employers' responsibility to communicate with non-English speaking, or limited English proficiency, workers, as well as those with disabilities; and
- New requirements for submitting documentation to the department related to an employer's administrative organization:
  - the location of the official claims log,
  - the selected method for paying ongoing time loss compensation,
  - any practice of paying regular wages in lieu of TL, or of paying benefits (sick leave, health & welfare insurance, etc.) in conjunction with time loss compensation.

New requirements for submission of Employability Assessment Reports (EARs):
Per WAC 296-15-430, effective April 1, 2006, an EAR is no longer required if the worker is not eligible for vocational services because they returned to work or were released to work **at the job of injury with no restrictions**.

An EAR must be submitted within 5 working days of the date time loss benefits are terminated because the worker is not eligible for vocational services [except as noted above – returned to the job of injury], or within 5 working days of when the worker is found eligible for vocational services. (The EAR must be signed and dated by the self-insurer or service representative upon submission to the department.) If the worker returned to temporary or light duty, do not submit an EAR until the final vocational outcome is known.

If you have any questions as to when an EAR is required, please contact Thom Abbot (360-902-6915) or Sally Irish (360-902-6913).

Employers' responsibility to communicate with non-English speaking, or limited English proficiency, workers, as well as those with disabilities:
WAC 296-15-350 (9) states "Every self-insurer must ensure a means of communicating with all injured workers." Because failure to comply with this rule may result in a penalty, we'd like to clarify the department's intent behind the rule.

To accommodate injured workers with hearing disabilities, each employer must have TTD or TTY lines available. For those workers with sight impairment, the employer must have the capability of translating documents into Braille or a large font.

For non-English speaking or limited English proficiency injured workers, each employer or their representative is required to communicate with the worker in the worker's preferred language. Workers are not responsible for providing their own interpreter or translation services when communicating with the employer or employer's representative.

Instances where the employer must provide interpreter or translation services include, but are not limited to

- Medical appointments – Includes any appointment for treatment covered under the industrial injury: appointments with the attending physician, chiropractor, physical therapist, surgeon, etc.
- Independent Medical Examinations
- Meetings with vocational counselors
- Telephone calls between the worker and the employer or their representative, regardless of who initiates the call
- Written communications between the worker and the employer or their representative, translating documents coming in from as well as going out to the worker.

We are committed to assisting employers in communicating with workers. Several department forms and publications are already available in Spanish, including employer closure orders. Please see the attachment for a complete list of Spanish documents. Please contact Margaret Conley at 360-902-6906 if you have suggestions as to how we might better assist you.

*Note: Under many circumstances, workers may choose (but can not be required) to have a friend or family member interpret for them, but a department-approved translator must be used at all employer-requested Independent Medical Examinations. Please see Provider Bulletin 05-04 at http://www.lni.wa.gov/ClaimsInsurance/Providers/ProviderBulletins/pbAMAgree.asp?destination=/ClaimsIns/Files/Providers/ProvBulletins/PbFiles/PB0504.pdf for information regarding reimbursement for interpreter services.

New requirements for submitting documentation to the department related to an employer's administrative organization:

- WAC 296-15-320 (5) (b) states "The self-insurer must notify the department in writing of the location of their official claims log." If the claims log will be maintained by a third party administrator, "a copy of the written agreement between the self-insurer and the third party administrator must be provided to the department."

Please submit this documentation to our Program Compliance unit, PO Box 44893, Olympia, WA 98504-4893. **Be sure to include your L&I account identification number on the correspondence.**

- WAC 296-15-340 (2) states "Every self-insurer must select one method for payment of ongoing time loss compensation, either semimonthly or biweekly, and report the selected method to the department."

  Please submit this documentation to our Program Compliance unit, PO Box 44893, Olympia, WA 98504-4893. **Be sure to include your L&I account identification number on the correspondence.**

- WAC 296-15-340 (3) states "Every self-insurer must provide the department with a detailed written description of any practice of paying workers' regular wages in lieu of time loss compensation, or of paying workers any benefits including sick leave, health and welfare insurance benefits, or any other compensation in conjunction with time loss compensation."

  Please submit this documentation to our Program Compliance unit, PO Box 44893, Olympia, WA 98504-4893. **Be sure to include your L&I account identification number on the correspondence.**

Join or Leave the L&I Self-Insurance E-mail List - Windows Internet Explorer

http://www.lni.wa.gov/Main/Listservs/ClaimsIns/SelfInsurance.asp

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- For Medical Providers
- Fraud & Complaints
- Insurance for Business
  - About L&I's Workers' Comp Insurance
  - File Quarterly Reports
  - View Employer Account & Claims Information
  - Self-Insured Employers
  - Rates & Risk Classes
    - Rate Holiday
    - How Rates Are Developed
    - Check Rates & Risk Classes
    - Rates for Workers' Compensation
    - Appeal Coverage & Rates
  - Reducing Premiums
  - Workers' Comp Injury Data & Statistics
  - Verify Workers' Comp Coverage
  - Insurance Forms & Publications
- Help for Crime Victims
- WACs & RCWs

Join or Leave the L&I Self-Insurance E-mail List

Already subscribed? View the archives.

If you JOIN the L&I Self-Insurance electronic mailing list, you will receive information via e-mail about:

Events and activities
COLA information
Assessment rates
Updates to L&I policies and procedures

and other important information that affects self-insured employers and their third party administrators.

How to join (or leave) this list:

1. Enter your name and e-mail address in the fields below.
2. Click either the "Join" or "Leave" button.
3. You will receive an e-mail with instructions on how to confirm your request. You must respond within 48 hours.

Note: If your e-mail address changes you will need to leave the list, then join it again with your new e-mail address.

Name

E-mail Address

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http://listserv.wa.gov/archives/lni-self-insurance.html

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listserv.wa.gov

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Department of Labor and Industries Self Insurance Community Information

- Search the archives
- Post to the list
- Join or leave the list (or change settings)
- Manage the list (list owners only)

- April 2007
- March 2007
- January 2007
- December 2006
- November 2006
- October 2006
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- July 2006
- June 2006
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- November 2005
- September 2005
- August 2005
- July 2005
- June 2005

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Official State Government Web Site
listserv.wa.gov

LNI-SELF-INSURANCE Archives – December 2006

1. LNI Self Insurance - Rule clarification
   - LNI Self Insurance - Rule clarification *(1044 lines)*
     From: Conley, Margaret (LNI) <MCGM235@LNI.WA.GOV>
     Date: Wed, 13 Dec 2006 10:59:42 -0800

2. LNI Self Insurance: 2007 Assessment Rates
   - LNI Self Insurance: 2007 Assessment Rates *(573 lines)*
     From: Conley, Margaret (LNI) <MCGM235@LNI.WA.GOV>
     Date: Tue, 5 Dec 2006 15:58:06 -0800

3. LNI Self Insurance: Now accepting applications for March 2007 Certified Administrator Test
   - LNI Self Insurance: Now accepting applications for March 2007 Certified Administrator Test *(33 lines)*
     From: Conley, Margaret (LNI) <MCGM235@LNI.WA.GOV>
     Date: Tue, 19 Dec 2006 09:35:18 -0800

Back to the main LNI-SELF-INSURANCE page

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APPENDIX C

RCW 51.52.060

Notice of appeal — Time — Cross-appeal — Departmental options.

(1)(a) Except as otherwise specifically provided in this section, a worker, beneficiary, employer, health services provider, or other person aggrieved by an order, decision, or award of the department must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which a copy of the order, decision, or award was communicated to such person, a notice of appeal to the board. However, a health services provider or other person aggrieved by a department order or decision making demand, whether with or without penalty, solely for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within twenty days from the day on which a copy of the order or decision was communicated to the health services provider upon whom the department order or decision was served, a notice of appeal to the board.

(b) Failure to file a notice of appeal with both the board and the department shall not be grounds for denying the appeal if the notice of appeal is filed with either the board or the department.

(2) Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties to the appeal of the receipt of the appeal and shall forward a copy of the notice of appeal to the other interested parties. Within twenty days of the receipt of such notice of the board, the worker or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken.

(3) If within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department directs the submission of further evidence or the investigation of any further fact, the time for filing the notice of appeal shall not commence to run until the person has been advised in writing of the final decision of the department in the matter. In the event the department directs the submission of further evidence or the investigation of any further fact, as provided in this section, the department shall render a final order, decision, or award within ninety days from the date further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days.

(4) The department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may:

(a) Modify, reverse, or change any order, decision, or award; or

(b)(i) Except as provided in (b)(ii) of this subsection, hold an order, decision, or award in abeyance for a period of ninety days which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal; or

(ii) Hold an order, decision, or award issued under RCW 51.32.160 in abeyance for a period not to exceed ninety days from the date of receipt of an application under RCW 51.32.160. The department may extend the ninety-day time period for an additional sixty days for good cause.

For purposes of this subsection, good cause includes delay that results from conduct of the claimant that is subject to sanction under RCW 51.32.110.

The board shall deny the appeal upon the issuance of an order under (b)(i) or (ii) of this subsection holding an earlier order, decision, or award in abeyance, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department.

This subsection (4)(b) does not apply to applications deemed granted under RCW 51.32.160.

(5) An employer shall have the right to appeal an application deemed granted under RCW 51.32.160 on the same basis as any other application adjudicated pursuant to that section.

(6) A provision of this section shall not be deemed to change, alter, or modify the practice or procedure of the department for the payment of awards pending appeal.

[1995 c 253 § 1; 1995 c 199 § 7; 1986 c 200 § 11; 1977 ex.s. c 350 § 76; 1975 1st ex.s. c 58 § 2; 1963 c 148 § 1; 1961 c 274 § 8; 1961 c 23 § 51.52.060. Prior: 1957 c 70 § 56; 1951 c 225 § 6; prior: 1949 c 219 §§ 1, part, 6, part; 1947 c 246 § 1, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 §§ 2, part, 6, part; 1927 c 310 §§ 4, part, 8, part; 1923 c 136 § 2, part; 1919 c 134 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 §§ 5, part, 20, part; Rem Supp. 1949 §§ 7679, part, 7697, part.]

Notes:

Reviser's note: This section was amended by 1995 c 199 § 7 and by 1995 c 253 § 1, each without reference to

the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability -- 1995 c 199: See note following RCW 51.12.120.

WAC 296-15-350
Handling of claims.

What elements must a self-insurer have in place to ensure appropriate handling of claims? Every self-insurer must:

(1) Establish procedures for securing the confidentiality of claim information.

(2) Have sufficient numbers of department-approved claims administrators to ensure uninterrupted administration of claims.

(a) There must be at least one department-approved claims administrator involved in the daily management of the employer's claims.

(b) If claims are administered in more than one location, there must be at least one department-approved claims administrator in each location where claims are managed.

(3) Designate one department-approved claims administrator as the department's primary contact person for claim issues.

(4) Designate one address for the mailing of all claims-related correspondence. The self-insurer is responsible for forwarding documents to the appropriate location if an employer's claims are managed by more than one organization.

(5) Establish procedures to answer questions and address concerns raised by workers, providers, or the department.

(6) Ensure claims management personnel are informed of new developments in workers' compensation due to changes in statute, case law, rule, or department policy.

(7) Include the department's claim number in all claim-related communications with workers, providers, and the department.

(8) Legibly date stamp incoming correspondence, identifying both the date received and the location or entity that received it.

(9) Ensure a means of communicating with all injured workers.

[Statutory Authority: RCW 51.04.020, 51.14.020, 51.32.190, 51.14.090, and 51.14.095. 06-06-066, § 296-15-350, filed 2/28/06, effective 4/1/06.]

RCW 2.43.010

Legislative intent.

It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in chapter 358, Laws of 1989 abridges the parties' rights or obligations under other statutes or court rules or other law.

[1989 c 358 § 1. Formerly RCW 2.42.200.]

Notes:

Severability -- 1989 c 358: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 358 § 10.]

RCW 2.43.020

Definitions.

As used in this chapter:

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.

(5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

[2005 c 282 § 2; 1989 c 358 § 2. Formerly RCW 2.42.210.]

Notes:

Severability -- 1989 c 358: See note following RCW 2.43.010.

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 a 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 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.

[2005 c 282 § 3; 1990 c 183 § 1; 1989 c 358 § 3. Formerly RCW 2.42.220.]

Notes:

Severability -- 1989 c 358: See note following RCW 2.43.010.

WAC 263-12-097
Interpreters.

(1) When an impaired person as defined in chapter 2.42 RCW or a non-English-speaking person as defined in chapter 2.43 RCW is a party or witness in a hearing before the board of industrial insurance appeals, the industrial appeals judge may appoint an interpreter to assist the party or witness throughout the proceeding. Appointment, qualifications, waiver, compensation, visual recording, and ethical standards of interpreters in adjudicative proceedings are governed by the provisions of chapters 2.42 and 2.43 RCW and General Rule provisions GR 11, GR 11.1, and GR 11.2.

(2) The provisions of General Rule 11.3 regarding telephonic interpretation shall not apply to the board's use of interpreters.

(3) The industrial appeals judge shall make a preliminary determination that an interpreter is able to accurately interpret all communication to and from the impaired or non-English-speaking person and that the interpreter is impartial. The interpreter's ability to accurately interpret all communications shall be based upon either (a) certification by the office of the administrator of the courts, or (b) the interpreter's education, certifications, experience, and the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding. The parties or their representatives may question the interpreter as to his or her qualifications or impartiality.

(4) The board of industrial insurance appeals will pay interpreter fees and expenses when the industrial appeals judge has determined the need for interpretive services as set forth in subsection (1). When a party or person for which interpretive services were requested fails to appear at the proceeding, the requesting party or the party's representative may be required to bear the expense of providing the interpreter.

[Statutory Authority: RCW 51.52.020. 06-12-003, § 263-12-097, filed 5/25/06, effective 6/25/06; 00-23-022, § 263-12-097, filed 11/7/00, effective 12/8/00.]