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COURT OF APPEALS, DIVISION I  
STATE OF WASHINGTON

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EMIRA RESULOVIĆ,

Appellant,

v.

DEPARTMENT OF LABOR & INDUSTRIES,

Respondent.

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REPLY BRIEF OF APPELLANT

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Ann Pearl Owen, WSBA #9033  
2407-14<sup>th</sup> Avenue South  
Seattle, Washington 98144  
(206) 624-8637

Attorney for Emira Resulović, Appellant

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## I. INTRODUCTION

The Department's Brief contains so many arguments, cases, and factual errors, that it is impossible to address them all in the pages allowed for this brief. The public policy arguments made in the opening brief cannot be addressed nor is in depth discussion of EO 13166, Title VI of the Civil Rights Act of 1964, or RCW 49.60 permitted. Correcting the factual errors alone would take many pages and is left for oral argument.

## II. OTHER APPEALS BEFORE THIS COURT

This court has before it *Ferenćak v. Dep't of Labor & Indus.*, COA No. 58878-8-I where the Department stipulated and the Board found a "late" appeal timely because the LEP worker filed an appeal within 60 days of having the contents of the order first communicated to him "in terms that he could understand. **APP 1.** That correct timeliness finding should apply here as there was no evidence the orders were communicated to Ms. Resulović in Bosnian more than 60 days before she appealed.

## III. ARGUMENT

### A. Equal Access to Justice Requires Language Accommodation.

First and foremost, this is a case about equal access to justice when there is a language barrier. In 2003, the *Washington State Civil Legal*

*Needs Study* of the Task Force on Civil Equal Justice Funding reported Washington was tenth of states with immigrants in the last ten years.

The introduction to the *Equal Access to Justice Report*<sup>1</sup> states at page 1 that “When justice is inaccessible, the simple result is injustice. The need to eliminate barriers preventing access to our courts is real and immediate.” The report states on page 3 that “Access to the courts is a fundamental right, preservative of all other rights.” The report also indicates “the law requires courts to remove barriers and/or provide reasonable accommodations. What constitutes reasonable accommodation depends upon the particular circumstances.” The report recognizes that the requirement to accommodate to ensure equal access to justice applies not only to courts, but also to state administrative agencies at page 12.

The Office of the Administrator of the Courts has recently reported on accommodating problems experienced by LEP persons with access to justice in the *Washington State LEP Plan* [July 2007], stating at 5-6 that:

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

Washington’s interpreter statute provides that the court, governmental body or agency initiating the proceeding is to pay for the interpreter in all legal proceedings in which the LEP individual is compelled to appear by the court, governmental body or agency.

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<sup>1</sup> *Ensuring Equal Access for People with Disabilities: A Guide for Washington Courts*, WSBA, August 2006, available at [www.wsba.org/atj](http://www.wsba.org/atj).

This Court should address LEP accommodation to ensure equal access at the Department, Board, and Superior Court.

**B. Non Washington Authority Does Not Support DLI's Position.**

1. The Department Omits Cases which Support Ms. Resulović.

Elsewhere, the Department cited *Almendares v. Palmer*, 284 F.Supp.2d 799 (N.D. Ohio 2003) on EO 13166, where the Court said:

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

A consent decree ensued with attorney fees correcting the LEP problem.<sup>2</sup>

The Department failed to cite this case here, also omitting cites pre-EO 13166 cases it relied on -- *US v. Lim*, 794 F.2d 469 (9<sup>th</sup> Cir. 1986), *Augustin v. Sava*, 735 F.2d 32 (1984). Both LEP persons have a right to a court-appointed interpreter to communicate with counsel. In *Lim*, the Court found the court provided a court-appointed interpreter for at trial *and to prepare for trial*. In *Augustin*, the Court found interpreter services inadequate, because the LEP person was entitled to interpreter services to consult with counsel to prepare for hearing. *Nazarova v. INS*, 171 F.3d 478 (7<sup>th</sup> Cir. 2006) also held LEP persons have the right to an

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

interpreter, but found no prejudice as Nazarova knew when her hearing was, but arrived late. All these cases support Ms. Resulović here.

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

The Department cited cases ignoring the fact that our Act is unique and other state cases are “useless” to interpret it. *Stertz v. Ind'l Ins. Com'n*, 91 Wash. 588, 604, 158 P. 256 (1916), *Cockle v. Dep't Labor & Ind.*, 142 Wn.2d 801, 815, 16 P.2d 583 (2000). In citing *Lander v. Ind'l Com'n of Utah*, 894 P.2d 552(1995), on Utah injured workers, it ignored *Buffelen Woodworking v. Cook*, 28 Wn.App. 501, 615 P.2d 704 (1981) where this court held workers have due process rights even in potential benefits under our Industrial Insurance Act.<sup>3</sup>

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

The Department cited *Alfonso v. Board of Review*, 444 A.2d 1075 (NJ 1982)<sup>4</sup> failing to advise that it has not been authoritative since the Legislature required notices to be in the LEP person's language.<sup>5</sup> In *Rivera v. Board of Review*, 127 NJ 578, 606 A.2d 1087 (1992), the Court disapproved of *Alfonso*, finding a “late” appeal timely when an LEP worker received an English-only notice. Since 1986, New Jersey law has

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<sup>3</sup> The Department cited *Harris v. Dep't of Labor & Indus.*, 120 Wn.2d 461, 843 P.2d 1056 (1993), as holding our Act does not create “vested rights.” The *Harris* Court considered only if federal law preempted the Act on Social Security offsets. The Court did not address due process, equal protection, or their application under the Act.

<sup>4</sup> The 5 to 4 decision had a well-reasoned dissent later approved in *Rivera*.

<sup>5</sup> As Washington law requires for DSHS & ESD notices as briefed earlier.

supported Ms. Resulović, not the Department. Thus, under the state law the Department relies on, Ms. Resulović's appeals were timely. The Department also cited a number of cases either decided before EO 13166 and/or not addressing Title VI, RCW 2.43, or RCW 51.<sup>6</sup> The page limit for this brief does not allow addressing all the cases cited in the response.

### **C. Language Services are Department-Paid Benefits Required by Act.**

Benefits under the Act are paid from three separate Department accounts: the medical aid, accident, and supplemental pension funds. The medical aid fund pays for medical treatment and interpreter services under RCW 51.04.030.<sup>7</sup> In addition to federal collars, they also receive Industrial Insurance premiums the Department collects from employers. *WR Enterprises v. Dep't of Labor & Indus.*, 147 Wn.2d 213, 53 P.3d 504 (2002). Only the Department may draw on these funds. RCW 51.44.110. The Department pays Board expenses, including interpreters, from the medical aid and accident funds under RCW 51.52.030.

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<sup>6</sup> *E.g. Abdullah v. INS*, 184 F.3d 158 (2<sup>nd</sup> Cir. 1999); *Carmona v. Sheffield*, 475 F.2d 738 (9<sup>th</sup> Cir. 1973); *Frontera v. Sindell*, 522 F.2d 1022 (6<sup>th</sup> Cir. 1975); *Guadalupe Org. v. Tempe Elementary Sch. Dist.*, 587 F.2d 1022 (9<sup>th</sup> Cir. 1978); *Guerrero v. Carleson*, 512 P.2d 833 (Cal. 1973), cert. denied, 414 U.S. 1127, 94 S.Ct. 883, 38 L.Ed. 2d 762 (1974); *Haig v. Agee*, 453 U.S. 280, 101 S.Ct. 2766, 69 L.Ed.2d 640 (1981); *Hernandez v. Dep't of Labor*, 416 N.E. 2d 263 (Ill. 1981); *Jara v. Municipal Court*, 578 P.2d 94 (Cal. 1978); *Kuqo v. Ashcroft*, 391 F.3d 856 (7<sup>th</sup> Cir. 2004); *Soberal-Perez v. Heckler*, 717 F.2d 36 (2<sup>nd</sup> Cir. 1983), cert. denied, 466 U.S. 929, 104 S.Ct. 1713, 80 L.Ed. 2d 186 (1984); *Toure v. U.S.*, 24 F. 3d 444 (2<sup>nd</sup> Cir. 1994) *Valdez v. New York City Housing Authority*, 783 F.Supp. 109 (S.D.N.Y. 1991).

<sup>7</sup> The accident fund pays disability and vocational benefits under RCW 51.32. The supplemental pension fund pays COLAs. RCW 51.32.073, .075.

Department Interpreter Services policies recognize that interpreter services are a benefit it provides LEP workers for health care, vocational services, and IMEs. PB 03-01:8, PB 05-04:7, **APP 2 & 3**.<sup>8</sup> The Department claim adjudicator testified Department policies cover the Department pays interpreters for “wherever it is they have to interpret”, including for medical care, IMEs and vocational evaluation. RP 8/17: 27. The Department pays for interpreters for health care because not doing so “is a form of prohibited discrimination on the basis of national origin under Title VI of the Civil Rights Act of 1964. **APP 3**, p. 2.

The Department pays interpreters with Department provider numbers under its written policies on Department forms billings [paper or electronic] with Department billing codes. **APP 2**, 6-10; **APP 3**, 7-12. The Department website has additional information on language assistance, billing procedures, and approved interpreter lists for various languages. See **APP 4**.<sup>9</sup> It is interesting to note that the interpreter the Board hired is not Department approved for Bosnian, Serbian or Croatian.

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<sup>8</sup> **APP 2:** Excerpts from Department Interpreter Services Policy PB 03-01. **APP 3:** Excerpts from Interpreter Services Policy PB 05-04. The Court can recognize these as legislative fact under *Rogstad v. Rogstad*, 74 Wn.12d 736, 446 P.2d 340 (1968).

<sup>9</sup> **Appendix 4**, Department website on language services, cognizable as legislative facts under *Rogstad, supra*. Available at <http://fortress.wa.gov/lni/ils/ILLSstart.aspx>, and <http://www.lni.wa.gov/ClaimsIns/Providers/Manage/Interpreters/default.asp>.

**D. Unequal Distribution of Benefits is Forbidden under the Act.**

Our State Supreme Court has recognized that Washington's Industrial Insurance plan is unique saying "[O]urs is not an employer's liability act. It is not even an ordinary compensation act. It is an industrial insurance statute." *Stertz, supra*, 592. Under the Act, disability benefits are scheduled to ensure equal treatment. RCW 51.32.060, .090. Under RCW 51.04.030(1), payment of medical benefits is required:

consistent with promptness and efficiency, *without discrimination or favoritism*, and with as great uniformity as the various and diverse surrounding circumstances . . . will permit. [Emphasis added]

To ensure LEP workers receive prompt and efficient medical care, the Department pays interpreter benefits under RCW 51.04.030(1) to avoid "discrimination or favoritism." Provisions for other benefits agree.<sup>10</sup>

Despite knowing she was LEP, the Department did NOT provide Ms. Resulović interpreter services for all her health care visits and did NOT provide her written communication in her language, despite knowing she was LEP. The Department's practice of providing language accommodation to some LEP workers and not others and to communicate

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<sup>10</sup> For equality of treatment, wage replacement benefits are scheduled by RCW 51.32.060 and .090. Under RCW 51.16.040, benefits for occupational disease are paid "in the same manner" as for industrial injury. RCW 51.32.180 requires disability payments to occupational disease sufferers be the same as for those with industrial injury. To qualify and remain self insurers, employers are required to provide benefits equal to those provided by the state fund under RCW 51.14.010, RCW 51.14.080. See also RCW 51.32.055.

in English with EP workers but not in their languages to LEP workers violates its statutory duty to under the Act to provide injured workers' benefits without discrimination or favoritism. It also violates the intent of the act to "reduce to a minimum the economic loss" arising from injury in employment. RCW 51.12.010. In *State ex rel. Davis-Smith Co. v. Clausen*, 65 Wash. 156, 117 P. 1101 (1911), the Court explained this was to protect the injured worker from all financial loss caused by covered work injuries, saying at 175:

[T]he theory and purpose of the act . . . is founded on the basic principle that certain defined **industries**, called in the act extra hazardous, **should be made to bear the financial losses sustained by the workmen** engaged therein through personal injuries, and its purpose is to furnish a remedy that will reach every injury sustained by a workman engaged in any of such industries, and make a sure and certain award therefor, bearing a **just proportion** to the loss sustained, regardless of the manner in which the injury was received.

It is anticipated the Department will argue that the money spent for interpreters discriminates against other injured workers because:

1. They receive no similar interpreter benefits,
2. These benefits waste Department funds, or
3. Department funds which pay their benefits will be reduced.

The answer to the first claim is simple, EP injured workers receive no such benefits because they incur no interpreter expense, just as injured workers who lose no wages do not receive wage benefits.

P.2d 257 (1989). By shifting interpreter costs to Ms. Resulović, her minimum scheduled disability benefits were improperly diminished.

**F. Ms. Resulović was Multiply Prejudiced.**

Ms. Resulović was prejudiced by Department and Board decisions restricting interpreter services in the many ways: 1) being kept ignorant of her rights, duties, benefits, and claim decisions under the Act; 2) impairing her receipt of prompt and efficient medical care, 3) incurring costs for interpreters for medical care, 4) incurring expense to respond to the Department's discovery requests, and 5) loss of her appeal rights.

**G. The Department Recognizes It Must Provide Interpreter Services.**

Since 1999, the Department has recognized the claim adjudicator's duty to ascertain the worker's need for language services and to inform the worker by letter authorizing or denying language services, "explaining the reasons" for any denial. See **APP 5**.<sup>12</sup> Here the claim adjudicator lacked competence to assess this need.<sup>13</sup> When language services are approved, the Department sends "all correspondence in the language or format the worker understands." Task 10-30-A: 2. The Claims Manual recognizes the medical treatment adjudicator's obligation to evaluate bills for language services for payment. See **APP 5**, Task 10.30-B. The

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<sup>12</sup> **APP 5**: Department Claims Manual excerpts, Claims Adjudicator Tasks 10.30-A and 10.30-B and Department Form Letter Authorizing Interpreter Services.

<sup>13</sup> TR 8/17: 22-26

Department has a form letter to authorizing interpreter services. See **APP 5**, Letter. See **APP 6, Department Management Update** also requiring all communication in the LEP worker's language. Despite using an interpreter to communicate with Ms. Resulović by phone, the Department sent her nothing in her language. RP 8/17: 14-15, 28-29.

#### **H. Discriminatory Language Benefit Practices are Barred by the Act.**

The Department's practice of providing language assistance to some LEP injured workers, but not for others [by providing Spanish language brochures, forms and orders to Spanish speaking workers]<sup>14</sup> is discrimination based on national origin unsupportable under RCW 2.43, equal protection, or RCW 49.60 authority addressed in the opening brief.

#### **I. The Department Ignored Statutory Intent & Applied Incorrect Rules of Construction.**

Ms. Resulović's case depends on her right worker to language benefits under the Act and the Interpreter Acts, RCW 2.43 and RCW 2.42. The Department failed to apply the directives in RCW 51.04.010 to provide "sure and certain relief" for injured workers, in RCW 51.12.010 to construe the Act liberally in their favor to minimize their suffering and economic loss from industrial injury and in RCW 2.43.010 and RCW 2.42 to protect the rights of those unable to communicate in English.

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<sup>14</sup> See **APP. 7, 8, & 9**, Spanish and English forms available from the Department.

All three Acts are patently remedial, the first protecting workers and the latter two protecting those with language barriers. The Department fails to mention and to apply the time-honored rule that remedial statutes must be construed broadly to foster their beneficial purposes. *Sebastian v. Dep't of Labor & Indus.*, 142 Wn.2d 280, 12 P.3d 594 (2000). These statutes must be liberally construed to favor the statutory beneficiaries -- injured workers with a communication barrier. Exemptions are to be narrowly construed consistent with the statutory spirit. *Silverstreak v. Dep't of Labor & Indus.*, 159 Wn.2d 868, 154 P.3d 891, 899 (2007).

The Department asserts Ms. Resulović has no rights needing protection only “economic rights” ignoring her rights under RCW 51.12.010 to sure and certain relief and RCW 51.36.010 to prompt and necessary medical care. Thus, it is argued the Department is relieved of its burden to provide language accommodation. This argument is based on flawed analysis of authority on RCW 2.43. The Department suggests *State v. Gonzales-Morales*, 138 Wn.2d 374, 979 P.2d (1999) holds RCW 2.43 only protects constitutional rights. RCW 2.43.010 is clear that interpreter appointment is required to protect *all LEP persons' rights*.

In *State v. Marintorres*, 93 Wn.App. 442, 969 P.2d 501 (1999), the Court applied equal protection analysis finding no rational basis to

distinguish between the state's obligation to provide free interpreters for those with speech/hearing impairments and with LEP status.

**J. RCW 2.43 Mandates Interpreters in "Legal Proceedings."**

The Department claim that RCW 2.43 creates no right to an interpreter contradicts the statute's plain language. RCW 2.43.030(1)(c) unequivocally requires an interpreter be appointed in every legal proceeding involving an LEP person, stating:

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

RCW 2.43.030(1)(b) requires that the *use* of a certified interpreter if an LEP person is a party to or is compelled to appear in a legal proceeding. RCW 2.43.030 has no provision authorizing any state agency to fail to appoint an interpreter for an LEP person in a legal proceeding. "[I]f the state's meaning is plain on its face, then the court must give effect to that plain meaning as an expression of legislative intent." *Tingey v. Haisch*, 159 Wn.2d 652, 657, 152 P.3d 1010 (2007). If any LEP person is involved in any legal proceeding under RCW 2.43.020(3), the state agency **must** appoint a certified/qualified interpreter.

The Department's construction also ignores the context created by each provision of RCW 2.43. "Plain meaning is discerned from viewing the words of a particular provision in the context of the statute in which

they are found, together with related statutory provisions, and the statutory scheme as a whole.” *Burns v. City of Seattle*, 164 P.3d 475, 481 (August 2, 2007). RCW 2.43.010 states its purpose -- to “provide for the *use* and procedure for the appointment of such interpreters.” (Emphasis added). Under the Department’s construction, the word “use” is meaningless, as the statute only regulates procedures for “appointing” but not for “using” interpreters. “We have held, time and again, that “[s]tatutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous.” *Whatcom County v. City Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (1996).

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

The Department’s construction further renders absurd RCW 2.43.060’s narrowly limited waiver of interpreter services. If, as the Department contends, RCW 2.43 provides no broader appointment of

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

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

**K. Properly Construed, RCW 2.43 Covers State Agency Proceedings.**

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

The *Washington State LEP Plan*<sup>15</sup> recognizes interpreters are required for LEP persons in "all legal proceedings," stating at pages 5-6:

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

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<sup>15</sup> July 2007, Office of the Administrator of the Courts, **APP 9**. The Washington State LEP Plan likewise recognizes the responsibility to provide language assistance outside "court proceedings" at pages 8-9.

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

2. Agency Investigations are “Legal Proceedings.”

Statements under oath to a government agency are “testimonial” and are part of a legal proceeding. *State v. Smith*, 97 Wn.2d 856, 651 P.2d 207 (1982) and *Davis v. Washington*, 541 U.S. \_\_\_, 165 L.Ed.2d 224, 126 S.Ct. 2266 (2006) both considered statements to an investigating government agency, finding those statements were “testimonial” and thus admissible in later trials as statements made in “other proceedings” of the legal proceedings listed in ER 801(d)(i). The Legislature intended nothing less broad in RCW 2.43 where an agency “proceeding” encompasses the Department’s injury investigation and adjudication of benefits based on sworn statements. See multiple Work Verification & Time-Loss Notification Forms, **Ex. 4**.

3. The Department Conducts “Legal Proceedings.”

The Department starts its statutorily-required investigation<sup>16</sup> into an injury, by providing a Report of Industrial Injury form on which the

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<sup>16</sup> The Department may use information from investigation of a work place injury to: report on fraud as required under RCW 43.22.331; issue WSHA citations under RCW 49.17.130; charge civil or criminal WISHA violations under RCW 49.17.180 or RCW 49.17.190; act on claims filed under RCW 51.28.030; charge false reporting under RCW 51.48.020; charge retaliation under RCW 51.48.025; penalize rule violation under RCW 51.48.080; penalize self-insured employers under RCW 51.48.017; penalize employers for failing to cover workers under RCW 51.48.105; penalize

worker must provide information subject to civil and criminal penalty. To get time loss benefits, the worker must provide data on a Department Time Loss Certification form also under oath. Periodically while on time loss, the worker must similarly provide more information under oath on the Department Worker Verification Form. See **Appendices 7, 8 & 9.**<sup>17</sup> Potential worker consequences include Class C felony conviction, 5 years' imprisonment, \$10,000 fine [RCW 9A.72.030], and civil liability and penalties [RCW 51.48]. Despite its claim to the contrary, the Department claim investigation is a "legal proceeding" under *Smith* and *Davis, supra*.

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

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

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

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

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workers under RCW 51.48.250 and RCW 51.48.260; order workers to reimburse money and pay interest under RCW 51.48.250 & .260; or refer workers for criminal prosecution under RCW 51.48.270, RCW 9A.56, and/or RCW 9A.72.

<sup>17</sup> None of these forms is available in Bosnian, necessitating interpreter services for a Bosnian fluent worker to provide the information under oath the Department requires.

recognizes agency investigations as legal proceedings where interpreters must be provided if the person is a witness, suspect or victim.<sup>18</sup>

Department proceedings are “quasi-judicial” when they exercise adjudicative functions determining individual rights under the Act. *Allan v. Dep’t of Labor & Indus.*, 66 Wn.App. 415, 832 P.2d 489 (1991), relied on by Department, holds benefit calculation, which resulted in the wage order appealed is an “adjudicative function.” Thus, interpreters are required for Department investigations into and adjudication of claims.

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

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

Simply put, an appeal is but one a stage of a proceeding, neither the first stage of proceedings nor an entirely new proceeding. That being the case, the Board does not avoid its obligations under RCW 2.43 by any claim that appeals before it are new proceedings initiated by the worker.

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<sup>18</sup> RCW 2.42.120 (4) states: “If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. . . . No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.” The Department is Washington’s enforcement agency for the Industrial Insurance Act, the Crime Victim’s Compensation Act, and WISHA.

The appellate process is one of many stages in proceedings to establish the worker's benefits. The Department starts the proceeding by initiating an investigation of every worker injury as statute requires.

**L. *Rodriguez* Dicta on “Communication” does not Control.**

Fourteen years before adoption of RCW 2.43, in *Rodriguez v. Dep't of Labor & Indus.*, 85 Wn.2d 949, 540 P.2d 1359 (1975), the Court held that an LEP worker's appeal of an English-only order was *timely* despite apparently “late.” In *Rodriguez*, the Court indicated in *dicta* the oft-stated principle [true in cases where there is no language barrier] that delivery constitutes “communication.”<sup>19</sup> The Court applied equity to find Rodriguez' appeal timely as it should do here. To the extent that *Rodriguez* is cited as holding that “delivery constitutes communication” to an LEP person, the language is *obiter dicta*. The *Rodriguez* holding is to apply equity to find “late” appeals filed timely, especially where, as here, one party has unclean hands.<sup>20</sup>

To interpret “communicate” to mean “provide a copy [in English] of” violates the obligation to interpret the Act liberally in the worker's favor and two other rules of statutory construction -- the no surplusage

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<sup>19</sup>This Court recently cited *Rodriguez* for this principle in *Shafer v. Dep't of Labor & Indus.*, \_\_\_ Wn.App. \_\_\_, 159 P.3d 473 (2007) a case involving an English-fluent worker where the assumption that receipt constitutes “communication” is appropriate.

<sup>20</sup> The Department sent its orders in English, knowing Ms. Resulović lacked fluency but still used an interpreter to communicate with Ms. Resulović by phone. RP 8/17: 14..

rule, *Whatcom County, supra*, and the “different words” rule. The second rule is that “[w]hen the Legislature uses different words within the same statute, . . . a different meaning is intended.” *State v. Roggenkamp*, 153 Wn.2d 614, 625, 106 P.3d 196 (2005). This rule recognizes the Legislature intended two different meanings in using the words “send a copy” and “communicate” in RCW 51.52.050. This rule requires finding they meant two different things, not the same thing.

Applying *Rodriguez*’ equitable reasoning to RCW 51.52.060 should not result in this Court’s misconstruction of RCW 51.52.050. It must be remembered that in *Rodriguez*, the Supreme Court found the appeal timely based on equity but did not address constitutional and other arguments addressed raised here which require communicating the order to the LEP worker in the worker’s primary language.

**M. Resulović did not concede that the Department used “Black-Faced Type” in Proposing Finding her Appeal Timely.**

The Department asserts Ms. Resulović waived her “black-faced type” challenge by proposing the Board adopt a Decision and Order finding she appealed timely. Ms. Resulović has asserted throughout that

the failure to “communicate” orders as required by RCW 51.52.050, make her appeals timely. The Board set a hearing to determine timeliness.<sup>21</sup>

Ms. Resulović consistently asserted the failure to communicate the orders, stating that the Department never communicated its orders to her in a language she understood. CBRA 86-90, 134-8. Despite knowing Ms. Resulović could not communicate in English and required an interpreter, the Department never conveyed to her in a language she could understand 1) information about her rights and responsibilities as an injured worker or 2) that she had to appeal decisions within a given time. RP 8/17:14-16.

Ms. Resulović raised RCW 51.52.050 noncompliance in her Petition for Review [CBRA 54]. She proposed finding her appeals timely as “communication” required by RCW 51.52.050 had not occurred:

The contents of the orders . . . and Ms. Resulović’s duty to appeal them within sixty days of their communication to her was not known by Ms. Resulović until this information was communicated to her by her physician immediately before she met with her lawyer and filed these appeals.  
Resulović’s Proposed Finding of Fact 5, CBRA 68.

The Department ruled thereon, preserving the issue of RCW 51.52.050 compliance and appeal timeliness under RCW 51.52.060.

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<sup>21</sup> Post hearing briefing was filed addressing whether the appeal period under RCW 51.52.060 ever started and whether the Department met the requirements of RCW 51.52.050 starting the appeal period under RCW 51.52.060. CBRA 127-130.

**N. Ms. Resulović has the Right to Confer with Retained Counsel.**

The Department Brief asserted at 46 that Ms. Resulović has no right to counsel, based on *In re Dependency of Grove*,<sup>127</sup> Wn.2d 221, 897 P.2d 1252 (1995) finding there is no right to counsel *appointed at public expense* under the Act. The Act, Board and Department recognize a worker's right to representation by retained counsel. RCW 51.04.080, WAC 263-12-020. The *Worker's Guide to Industrial Insurance Benefits*,<sup>22</sup> recognizes the right to representation by counsel "of the worker's choosing" after issuance of the first order at page 18. Until recently, RCW 51.04.080 held the worker's right to retain counsel began with the first order.<sup>23</sup> Thus, from the first Department decision paying benefits in February 2000 [CBRA 123], Ms. Resulović had the right to retain counsel. In January 2005, she retained counsel who sent the Department notice that she represented Ms. Resulović. CBRA 124.

WAC 263-12-020(1)(a) unambiguously states "Any party to any appeal may appear before the board at any conference or hearing held in such appeal . . . by an attorney at law . . . of the party's choosing." On January 19, 2005, Ms. Resulović appealed to the Board asserting the

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<sup>22</sup> APP 11 available on the Department's website at <http://InjuredWorker.LNI.wa.gov> in English, at [http://www.lni.wa.gov/IPUB/242-104-111\(Russian\).pdf](http://www.lni.wa.gov/IPUB/242-104-111(Russian).pdf) in Russian, at [http://www.lni.wa.gov/IPUB/242-104-222\(Vietnamese\).pdf](http://www.lni.wa.gov/IPUB/242-104-222(Vietnamese).pdf) in Vietnamese, and at <http://www.lni.wa.gov/IPUB/242-104-999.pdf> in Spanish, but NOT in Bosnian.

<sup>23</sup> Then current version of RCW 51.04.080. The version effective 7/27/07 does not limit this right to after the Department's first order. See SSB 5688.

Department underpaid benefits and improperly closed her claim.<sup>24</sup> CBRA 86-90, 134-138. To the extent the Department asserts Ms. Resulović has no right to counsel at either Department or Board levels, it is incorrect. To so rule would seriously alter the grand compromise upon which both benefits under the Act and employer immunity are based.

**O. Refusing Interpreter Violates the Right to Retained Counsel.**

Under RCW 34.05.048(2), applicants to any benefit program administered by a state agency have the right to be “represented by” and “advised by” counsel hired at the party’s own expense. This right to counsel includes the right to confer with counsel during hearings to provide for adequate participation in and understanding of the proceedings.<sup>25</sup> GR 11.3(d) requires interpretation for confidential attorney-client interpretation even for brief matters, saying “Attorney-client consultations must be interpreted confidentially.” This rule applies at the Board via WAC 263-12-125.

The worker’s right to retained counsel includes the right to confer with counsel to receive advice to prepare for and during hearings. By denying Ms. Resulović free interpreter services to understand orders and other pleadings, to respond in discovery, and to reply to a dispositive

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<sup>24</sup> These notices complied with WAC 263-12-050(1)(a), bearing her counsel’s name, address and bar number. This invoked her right to counsel at the Board.

<sup>25</sup> See also *Gonzales-Morales, supra*, 387, indicating conferring with counsel in trial through an interpreter is required.

motion, the Board prevented her from full exercise of her right to receive the advice of and representation by retained counsel and prejudiced her.

**P. Noncompliance with Title VI & EO 13166, Endangers the Industrial Insurance Program's Considerable Federal Aid.**

Whether Ms. Resulović has a civil remedy under Title VI or EO 13166 is immaterial. Strict compliance with Title VI is necessary for LEP worker protection and also essential to preserve significant federal funding for our Industrial Insurance program. Noncompliance with Title VI, whether by ignorant or purposeful, risks all federal funding currently assisting Washington workers. As Adelson<sup>26</sup> explains:

Ignorance of Title VI and statutory non-compliance put federal aid recipients at significant risk. If a complaint alleging a Title VI violation is made to the federal government, a federal financial aid recipient could be faced with a compliance review by its funder or DOJ. Compliance reviews are intrusive, lengthy audits. The ultimate sanction, if the federal government determines that a federal assistance recipient has violated Title VI, is termination of that federal assistance.

Because the program's federal funding is endangered by Department and Board violation of Title VI, DOJ LEP Guidance, and DOL Title VI regulations, this Court must act to ensure those federal funds continue for the benefit of workers and employers throughout Washington State.

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<sup>26</sup> Adelson, *supra*.

**Q. Attorney Fees must be Awarded even for Remand for Hearings.**

RCW 51.52.130 provides a worker who prevails on court appeal gets attorney fees and costs. Under *Brand v. Dep't of Labor & Indus.*, 139 Wn.2d 659, 670, 989 P.2d 1111 (1999), if Ms. Resulović prevails on *any* issue, she is entitled to attorney fees on all issues. The Department asserts no right to fees arises unless the accident or medical aid funds are affected. If Ms. Resulović prevails only in receiving a new hearing where interpreter services are provided, she is entitled to attorney fees and costs for work on *all* issues and interpreter costs under RCW 2.43.040 as both these Department funds will pay the interpreter under RCW 51.52.030.

**VI. CONCLUSION**

Because the appeals were timely, this Court should:

1. Reverse the Superior Court, finding the orders ineffective, alternatively, find both appeals timely,
2. Issue an opinion stating required language accommodations,
3. Remand for further proceedings consistent with that opinion,
4. Award attorney fees and costs under RCW 51.52.130,
5. Award reimbursement of interpreter costs under RCW 2.43.

Respectfully submitted this 27<sup>th</sup> of October, 2007,



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Ann Pearl Owen, #9033  
Attorney for Emira Resulović, Appellant

## **APPENDIX 1**

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON

1 IN RE: IVAN FERENCAK

) DOCKET NOS. 02 21795, 02 22295, 02 22296,  
) 02 22794, 02 23491, 02 23492, 02 23698,  
) 03 15795, 03 16196, 03 16790, 03 17975,  
) 03 18398, 03 19097 & 03 20291

4 CLAIM NO. Y-388825

) DECISION AND ORDER

6 APPEARANCES:

7 Claimant, Ivan Ferencak, by  
8 Ann Pearl Owen, P.S., per  
9 Ann Pearl Owen

10 Employer, Travis Industries, Inc.,  
11 None

12 Department of Labor and Industries, by  
13 The Office of the Attorney General, per  
14 Cynthia A. Montgomery and Maureen A. Mannix, Assistants

15 **Docket No. 02 21795:** The claimant, Ivan Ferencak, filed an appeal with the Board of  
16 Industrial Insurance Appeals on November 15, 2002, from a Department order dated May 6, 2002.  
17 In this order, the Department determined Mr. Ferencak's monthly wages at the time of injury for  
18 purposes of calculating his time loss compensation rate under the claim. The Department  
19 determined Mr. Ferencak to have earned \$11.50 per hour, eight hours per day, five days per week,  
20 which equals \$2,024 per month, plus additional includable wage equivalents for employer-provided  
21 health care benefits of \$175 per month, for a total of \$2,199 monthly wages at the time of injury.  
22 The Department did not include any tips, bonuses, overtime, housing, board, or fuel. The  
23 Department determined that Mr. Ferencak was married with two dependent children. The Board  
24 assigned Docket No. 02 21795 to this appeal. The Department order is **AFFIRMED**.

25 The remaining appeals, consolidated with Docket No. 02 21795, are Mr. Ferencak's appeals  
26 from orders paying and/or adjusting time loss compensation for particular periods. The amount of  
27 payments and adjustments are premised on the determinations made in the Department order  
28 appealed in Docket No. 02 21795. The appeals were docketed by the Board as follows: **Docket**  
29 **No. 02 22295**, an appeal filed on November 25, 2002, from a November 18, 2002 Department  
30 order; **Docket No. 02 22296**, an appeal filed on November 25, 2002, from a November 19, 2002  
31 Department order; **Docket No. 02 22794**, an appeal filed on December 6, 2002, from a  
32 December 2, 2002 Department order, wherein the Department also terminated time loss

1 compensation effective November 25, 2002; **Docket No. 02 23491**, an appeal filed on  
2 November 15, 2002, from a May 2, 2002 Department order; **Docket No. 02 23492**, an appeal filed  
3 on November 15, 2002, from a May 14, 2002 Department order; **Docket No. 02 23698**, an appeal  
4 filed on November 15, 2002, from a May 28, 2002 Department order; **Docket No. 03 15795**, an  
5 appeal filed on May 23, 2003, from a May 20, 2003 Department order; **Docket No. 03 16196**, an  
6 appeal filed on June 4, 2003, from a June 2, 2003 Department order; **Docket No. 03 16790**, an  
7 appeal filed on June 18, 2003, from a June 16, 2003 Department order; **Docket No. 03 17975**, an  
8 appeal filed on July 30, 2003, from a July 28, 2003 Department order; **Docket No. 03 18398**, an  
9 appeal filed on July 3, 2003, from a June 30, 2003 Department order; **Docket No. 03 19097**, an  
10 appeal filed on July 18, 2003, from a July 14, 2003 Department order; and **Docket No. 03 20291**,  
11 an appeal filed on August 13, 2003, from an August 11, 2003 Department order. Each of these  
12 appealed Department orders are **AFFIRMED**.

### 13 PROCEDURAL AND EVIDENTIARY MATTERS

14 The industrial appeals judge affirmed the appealed Department orders in a Proposed  
15 Decision and Order issued on April 15, 2005. Mr. Ferencak filed a timely Petition for Review. This  
16 matter is therefore before the Board for review and decision pursuant to RCW 51.52.104 and  
17 RCW 51.52.106.

18 The critical appeal is the appeal assigned Docket No. 02 21795. In this appeal,  
19 Mr. Ferencak challenges the underlying Department order wherein the Department determined the  
20 basis for setting Mr. Ferencak's time loss compensation rate. This appeal adequately preserved  
21 Mr. Ferencak's right to have his time loss compensation payments appropriately adjusted were he  
22 to prevail and show that the Department had incorrectly determined his monthly wages at the time  
23 of injury. The Department and Mr. Ferencak stipulated that Mr. Ferencak did not read and  
24 understand English sufficiently to understand the import of the Department order dated May 6,  
25 2002. They further stipulated that Mr. Ferencak's attorney filed the appeal from this order within  
26 sixty days of the date on which an interpreter communicated the order to him in terms that he could  
27 understand. We agree that the appeal is timely. The other appeals are timely for like reason, or  
28 because they were filed by mail within sixty days of receipt of the respective Department orders.

29 Mr. Ferencak is represented by an attorney. The Board provided interpreter services to  
30 Mr. Ferencak, to the party representatives, and to the industrial appeals judge during  
31 Mr. Ferencak's testimony. Mr. Ferencak contends that interpreter services should have been  
32 additionally provided him at the Department level, during communications with his attorney, and

## **APPENDIX 2**



# PROVIDER BULLETIN

Published by  
Health Services Analysis Section  
Olympia, WA 98504-4322

PB 03-01

## THIS ISSUE

### Interpreter Services

#### TO:

Audiologists  
Chiropractic Physicians  
Clinics  
Dentists  
Freestanding Emergency Rooms  
Freestanding Surgery  
Hospitals  
Interpretive Service Providers  
Massage Therapists  
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Nurses  
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Osteopathic Physicians  
Panel Exam Groups  
Pharmacists  
Physical Therapists  
Podiatric Physicians  
Prosthetists & Orthotists  
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Radiologists  
Self Insured Employers  
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#### CONTACT:

Provider Toll Free  
1-800-848-0811  
902-6500 in Olympia

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## Purpose

This Provider Bulletin updates payment policies and fee schedules for interpreter services. This bulletin replaces Provider Bulletin 99-09 and the section titled "Interpreter Services" from the "Professional Services" chapter of the July 1, 2002 *Medical Aid Rules and Fee Schedules*. It applies to interpretive services provided to injured workers or crime victims who have limited English language abilities or sensory impairments receiving benefits from:

- The State Fund
- Self insured employers and
- The Crime Victims' Compensation Program.

This policy is effective for dates of service on or after March 1, 2003.

## What Is Changing?

- Clarification of the record documentation that must be kept by each interpreter.
- Interpretive services will be paid per minute. It is the department's expectations that an interpreter's workday will generally not exceed 8 hours per day. This expectation is based on the assumption that an interpreter needs to be alert and attentive to provide the highest quality of professionalism and accuracy in their work. Any billed interpreter time that exceeds 8 hours in a workday will be the basis for pre and post payment review.

### *Document Translation*

The insurer may request translation of specific documents. This service may be requested only by the insurer, and must be authorized each time the service is needed. The insurer will not pay for interpreter services performed at the request of the worker.

## **Billing Requirements – Payment & Fees**

### **Provider Account Numbers**

All interpreters must have an individual provider number with the department of Labor & Industries. Interpreters must submit bills to the insurer using his or her own L&I provider account number. An interpreter may designate another provider number (such as a group or clinic) as the payee.

Individual interpreters needing a provider account number must submit a provider application and form W-9 to the department. The Provider Application and Notice can be printed from the Internet at <http://www.lni.wa.gov/hsa/forms/htm>. Providers can also request a provider application by calling the Provider Hotline at 1-800-848-0811 or by calling the department's Provider Accounts Section at: (360) 902-5140.

### **Submitting Bills**

Providers may submit bills electronically or on paper forms.

### *Electronic Billing*

Electronic billing reduces the time for processing and paying bills. Providers who want to bill electronically must submit an "Electronic Billing Authorization" form (F248-031-000) to the department's electronic billing unit. The form can be accessed on the Internet by going to <http://www.lni.wa.gov/hsa/forms/Tables/ElectronicBilling.htm>. The form can also be ordered from the department's warehouse at:

Warehouse  
Department of Labor and Industries  
PO Box 44843  
Olympia, WA 98504-4843

When requesting forms, please specify the form number and the quantity needed.

For more information about electronic billing, contact the department's electronic billing unit at:

Electronic Billing Unit  
Department of Labor and Industries  
PO Box 44264  
Olympia WA 98504-4264  
(360) 902-6511 or (360) 902-6512

### *Paper Billing*

Paper bills should be submitted on the green "Statement for Miscellaneous Services" form. These forms are produced in single sheets (F245-072-000) or as a continuous form (F245-072-001), and are available from an L&I field office or from the department's warehouse at the address specified in "Electronic Billing" above. When requesting forms, please specify the form number and the quantity needed.

### **Charges Billed to the Insurer**

Interpreters must bill their usual and customary fees when interpreting for injured workers or crime victims. The insurer will pay the lesser of the interpreter's usual and customary fee, or the fee schedule maximum (See WAC 296-20-010(2)).

### **Services Billed to the Insurer**

#### *Covered Services*

The following interpretive services are covered and may be billed to the insurer. Payment is dependent on authorization requirements, service limits and department policy.

Interpreters may bill the insurer for:

- Interpretive services providing language communication between the claimant and a health care or vocational provider.
- Time spent waiting for an appointment that does not begin at its scheduled time (when no other billable services are provided during the wait time).
- Time spent assisting a claimant with the completion of an insurer form.
- Time spent waiting when a worker does not show up for an insurer requested Independent Medical Exam (IME).
- Time spent translating a document at the request of the insurer.
- Miles driven from a point of origin to a destination point and return.

#### *Services Not Covered*

The following services are not covered and may not be billed to the insurer:

- Services provided for a denied or closed claim (except for services provided for a claimant's initial visit or for the services associated with a claimant's application to reopen a claim).
- Time spent waiting for an appointment that does not begin at its scheduled time if other billable services are performed during the wait time (e.g. document translation or assisting a claimant with form completion).
- Missed appointments for any service except an insurer requested Independent Medical Exam (IME).
- Personal assistance on behalf of the claimant such as scheduling appointments, translating correspondence, or making phone calls.
- Document translation requested by anyone other than the insurer, including the injured worker.
- Interpretive services provided for communication between an attorney or worker representative and the claimant.
- Travel time and travel related expenses, such as meals. (Some mileage is payable as noted in other sections of this bulletin.)
- Overhead costs, such as for photocopying and preparation of billing forms.

### **Billing Codes**

Interpreters should bill the following codes for interpretive services provided on or after 03-01-03. Interpreter time that exceeds 8 hours in a workday will be a basis for pre and post payment review. The 8-hour threshold applies to the combined total of all interpretive services paid per minute (9989M, 9990M, 9991M, 9996M, and 9997M).

The procedure code descriptions and maximum payments are listed below:

Code	Description	Maximum Fee	Code Limits
9989M	Interpretive services provided directly between the health care or vocational provider and the claimant, per minute	\$1.00 per minute	Billed time greater than 8 hours per day will be a basis for review.
9990M	Time spent assisting claimant with completion of insurer form, per minute, outside of the time spent with the provider of health or vocational services.	\$1.00 per minute	
9991M	Wait time for an appointment that does not begin at the scheduled time.	\$0.50 per minute	Billed time greater than 60 minutes will be a basis for review.
9996M	Interpreter "No show" wait time when a worker does not attend an insurer requested IME, per minute	\$0.50 per minute	Billed time greater than 60 minutes will be a basis for review.
9997M	Document translation at insurer request, per minute	\$1.00 per minute	Prior authorization is required for each document translated.
9986M	Interpreter mileage, per mile.	State employees' mileage rate*	Mileage billed beyond 50 miles per day per claim and total mileage beyond 75 miles per day to include <b>all claims</b> , will be a basis for review.

- \* Interpreters' mileage will be reimbursed at the rate paid to Washington State employees, which is established by the Office of Financial Management. At publication time the mileage rate is \$0.345 per mile.

## Billing for Group Services

When interpretive services are provided for two or more claimants concurrently, the time billed must be prorated among the claims. Total time billed for all claims must not exceed the actual time spent providing services.

### Example:

An interpreter is interpreting for three (3) claimants at a physical therapy clinic from 9:00 am to 10:00 am. The 3 claimants are simultaneously receiving therapy at different stations. Although the same times (9:00 am to 10:00 am) must be documented for all three claimants, the amount of direct interpretive time billed should be prorated between the 3 claimants; 20 minutes each. If later audited by the department, the documentation should clearly show that there were 3 claimants.

## Billing for Mileage

When traveling to a single location to serve multiple claimants, mileage must be prorated among the claims. The mileage proration applies to all claimants for whom the interpreter provides services. Total mileage billed for all claims must not exceed the total miles driven.

Mileage traveled beyond a 50-miles per claimant or 75 miles total per day will be a basis for pre and post payment review.

### Example 1:

An interpreter travels from her office to a clinic where she has an 8:30 a.m. appointment with one claimant and a 9:00 a.m. appointment with a second claimant and a 10:00 a.m. appointment with a

third claimant. The interpreter drives 5 miles to the clinic, interprets for the three claimants and drives another 5 miles returning to her office.

The interpreter may bill a maximum of 10 miles for the sum of miles billed for all three claims. The interpreter should bill 4 miles for one claim and three miles each for the other two claims.

**Example 2:**

An interpreter drives 5 miles from his office to a physician's office and provides interpretive services for a claimant. Following this appointment the interpreter drives 8 miles from the physician's office to a physical therapist's office and provides interpretive services for three claimants receiving group physical therapy services. Following the physical therapy appointment, the interpreter drives 4 miles back to his own office.

The interpreter may bill a maximum of 17 miles total for these claims. The interpreter should bill 5 miles for the first claimant and prorate the remaining 12 miles (four miles each) between the other three claims.

**Billing – Type of Service and Appropriate Coding**

The following are examples of how to determine the type of service and appropriate billing codes. In addition to these codes, make sure to review the billing instructions outlined in the *Medical Aid Rules and Fee Schedules*.

**Example #1 – Determining the Type of Service and Code to Bill**

Example Scenario	Time Frames	Type of Service	Code to Bill
Interpreter drives 8 miles from his place of business to interpret for a workers' office visit with the attending physician (AP).	Not applicable	Mileage	Bill 8 units of 9986M
Worker has a 9:30 am scheduled appointment with the AP.	9:30 am to 9:45 am.	15 minutes of wait time.	Bill 15 units of 9991M
Worker is taken into the exam room and examined for 20 minutes. AP leaves room for 5 minutes, returns and writes a prescription for x-rays and medication.	9:45 am to 10:15am	30 minutes of interpretive services	Bill 30 units of 9989M
Interpreter drives 4 miles to meet worker for an appointment for X-rays. This takes 10 minutes. They wait 10 minutes before going in for X-rays, which take 20 minutes.	10:15 am to 11:00 am.	10 minutes of wait time 20 minutes of interpreter services Mileage	Bill 10 units of 9991M Bill 20 units of 9989M Bill 4 units of 9986M
Interpreter drives a few blocks to meet worker at the pharmacy. They wait in line for 5 minutes, and it takes 5 minutes to obtain the prescription.	11:00 to 11:20	5 minutes of interpretive time 5 minutes of wait time Mileage (1 mile)	Bill 5 units of 9989M Bill 5 units of 9991M Bill 1 unit of 9986M
After completing the interpretive services, the interpreter drives 12 miles to his next interpretive appointment	Not applicable	Mileage	Bill 12 units of 9986M
Total Payable Services for the above doctor appointment, subsequent services and mileage		Wait time Interpreter Services Mileage	30 units 9991M 55 units 9989M 13 units 9986M

## **APPENDIX 3**



# PROVIDER BULLETIN

PB 05-04

## THIS ISSUE

**PB 05-04 -  
Interpretive Services  
Payment Policy  
Effective July 1, 2005**

**TO:**

Ambulatory Surgery Centers,  
Audiologists, Chiropractic Physicians,  
Clinics, Dentists, Drug and Alcohol  
Treatment Centers,  
Freestanding Emergency Rooms,  
Freestanding Surgery Centers,  
Hospitals, Interpretive Services  
Providers, IME Exam Groups,  
Massage Therapists, Naturopathic  
Physicians, Nurses-ARNP,  
Occupational Therapists, Opticians,  
Optometrists, Osteopathic Physicians,  
Pain Clinics, Panel Exam Groups,  
Pharmacists, Physicians, Physician  
Assistants, Physical Therapists,  
Podiatric Physicians, Prosthetists and  
Orthotists, Psychologists, Radiologists,  
Self-Insured Employers, Speech  
Therapists & Pathologists, Vocational  
Counselors

**CONTACT:** Provider Hotline  
1-800-848-0811

From Olympia 902-6500  
**Loris Gies: PO Box 4322**  
Olympia, WA 98504-4322  
(360) 902-5161

After July 1, 2005:  
**Karen Jost PO Box 4322**  
Olympia, WA 98504-4322  
360-902-6803  
Fax (360) 902-4249

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## Purpose

This Provider Bulletin updates coverage and payment policies for interpretive services as required in WACs 296-20-02700 and 296-23-165. **This bulletin replaces Provider Bulletin's 03-01, 03-10 and 05-01.** The purpose of this bulletin is to notify providers and insurers of the following changes:

- Revised coverage and payment policy.
- Interpretive services provider qualifications.
- Revised interpretive services codes and descriptions.
- New fees for interpretive services.
- Limits on interpretive services.
- Verification of interpretive services requirement.

# Interpretive Services for Healthcare and Vocational Services

This policy applies to interpretive services provided for healthcare and vocational services in all geographic locations to injured workers and crime victims (collectively referred to as "insured") having limited English proficiency or sensory impairments; and receiving benefits from the following insurers:

- The State Fund (L&I),
- Self-Insured Employers or
- The Crime Victims Compensation Program.

**This coverage and payment policy including new fees, codes, service descriptions, limits and provider qualification standards is effective on and after July 1, 2005.**

## Policy Does Not Apply to Interpretive Services for Legal Purposes

This coverage and payment policy does not apply to interpretive services for injured workers or crime victims for legal purposes, including but not limited to:

- Attorney appointments.
- Legal conferences.
- Testimony at the Board of Industrial Insurance Appeals or any court.
- Depositions at any level.

**Payment in these circumstances is the responsibility of the attorney or other requesting party(s).**

## Why Are Interpretive Services Covered?

The United States Department of Health and Human Services Office of Civil Rights concluded that inadequate interpretation for patients with Limited English Proficiency is a form of prohibited discrimination on the basis of national origin under Title VI of the Civil Rights Act of 1964. More information about the Civil Rights Act is available on the web at <http://www.hhs.gov/ocr/lep/>.

The Washington Workers' compensation law under RCW 51.04.030 (1) requires the provision of prompt and efficient care for injured workers without discrimination or favoritism. Therefore, interpretive services are covered so injured workers who have limited English proficiency or sensory impairments may receive prompt and efficient care.

## Information for Healthcare and Vocational Providers

Insured individuals with limited English proficiency or sensory impairments may need interpretive services in order to effectively communicate with you. Interpretive services do not require prior authorization.

Under the Civil Rights Act, as the healthcare or vocational provider, **you** determine whether effective communication is occurring. If assistance is needed, then **you**:

- Select an interpreter to facilitate communication between you and the insured.
- Determine if an interpreter (whether paid or unpaid) accompanying the insured meets your communication needs.
- May involve the insured in the interpreter selection. **NOTE: Under the Civil Right Act, hearing impaired persons have the right to participate in the interpreter selection.**
- Should be sensitive to the insured's cultural background and gender when selecting an interpreter.

You may also want to refer to information at <http://www.phyins.com/pi/risk/faq.html> regarding use of interpretive services.

## **Why Can't L&I Pay Interpreters a Minimum Fee?**

Only services which are actually delivered to injured workers can be paid. With a minimum fee, the insurer might make part of the payment for undelivered services. This would violate the department's responsibility to employers and injured workers who pay the industrial insurance premiums.

Further, under WAC 296-20-010(5) the insurer can pay only for missed insurer arranged IME appointments. If there was a minimum interpretive services fee, the insurer might pay for missed appointments arranged by healthcare or vocational providers or by the insured. This would conflict with the WAC. **However, mileage is payable for missed and/or IME no show appointments since the mileage service was an incurred prior to the missed appointment.**

## **Some Services Don't Require Prior Authorization**

Direct interpretive services (either group or individual) and mileage do not require prior authorization on open claims. Providers can check claim status with the insurer prior to service delivery.

Services prior to claim allowance are not payable except for the initial visit. If the claim is later allowed, the insurer will determine which services rendered prior to claim allowance are payable.

Only services to assist in completing the reopening application and for an insurer requested IME are payable unless or until a decision to reopen is made. If the claim is reopened, the insurer will determine which other services are payable.

## **Services at Insurer Request and/or Requiring Prior Authorization**

### **IME Interpretation Services**

When an IME is needed, the insurer will schedule the interpretive services. Prior authorization is not required. The insured may ask the insurer to use a specific interpreter. However, only the interpreter scheduled by the insurer will be paid. Interpreters who accompany the insured, without insurer approval, will not be paid nor allowed to interpret at the IME.

### **IME No Shows**

For State Fund claims, authorization must be obtained prior to payment for an IME no show. For State Fund claims contact the Central Scheduling Unit supervisor at 206-515-2799 after occurrence of IME no show. Per WAC 296-20-010 (5) "No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer."

### **Document Translation**

Document translation services are only paid when performed at the request of the insurer. Services will be authorized before the request packet is sent to the translator.

## **Fees, Codes, Service Descriptions and Limits**

The hourly fee for direct interpretive services (either group or individual) is being adjusted from \$60 per hour to \$48 per hour. The IME no show fee is a flat fee of \$48. The mileage rate increased January 1, 2005 to 40.5¢ per mile (the state employee reimbursement rate). Document translation fee is now by report.

Limits in the L&I bill processing system will automatically deny services exceeding the maximum limit on a specific code or combination of codes. The following fees, service descriptions and limits on services apply to services on and after July 1, 2005:

Code	Description	How to Bill	Maximum Fee	L&I Code Limits
9988M	<b>Group interpretation</b> direct services time between two or more client(s) and healthcare or vocational provider, includes wait and form completion time, time divided between all clients participating in group, <b>per minute</b>	1 minute equals 1 unit of service	\$0.80 per minute	Limited to 480 minutes per day.  Does not require prior authorization.
9989M	<b>Individual interpretation</b> direct services time between one insured client and healthcare or vocational provider, includes wait and form completion time, <b>per minute</b>	1 minute equals 1 unit of service	\$0.80 per minute	Limited to 480 minutes per day.  Does not require prior authorization.
9986M	<b>Mileage, per mile</b>	1 mile equals 1 unit of service	State employee reimbursement rate (as of January 1, 2005 rate is 40.5¢ per mile)	Does not require prior authorization.  Mileage billed over 200 miles per claim per day will be reviewed.
9996M	<b>Interpreter "IME no show"</b> wait time when insured does not attend the insurer requested IME, <b>flat fee</b>	Bill 1 unit only	Flat fee \$48	Payment requires prior authorization-Contact Central Scheduling Unit after no show occurs. Contact number: 206-515-2799.  Only 1 no show per claimant per day.
9997M	<b>Document translation</b> at insurer request	1 page equals 1 unit of service	BR	Requires prior authorization, which will be on translation request packet. Services over \$500 per claim will be reviewed.

## Covered and Non-covered Services

### *Covered Services*

The following interpretive services are covered. When billed, payment is dependent upon service limits and department policy. Interpretive services providers may bill the insurer for:

- Interpretive services which facilitate communication between the insured and a healthcare or vocational provider.
- Time spent waiting for an appointment that does not begin at time scheduled (when no other billable services are being delivered during the wait time).
- Assisting the insured to complete forms required by the insurer and/or healthcare or vocational provider.
- A flat fee for an insurer requested IME appointment when the insured does not attend.
- Translating document(s) at the insurer's request.
- Miles driven from a point of origin to a destination point and return.

### *Non-covered Services*

The following services are not covered and may not be billed to nor will they be paid by the insurer:

- Services provided for a denied or closed claim (except services associated with the initial visit for an injury or crime victim or the visit for insured's application to reopen a claim).
- Missed appointment for any service other than an insurer requested IME.
- Personal assistance on behalf of the insured such as scheduling appointments, translating correspondence or making phone calls.
- Document translation requested by anyone other than the insurer, including the insured.
- Services provided for communication between the insured and an attorney or lay worker legal representative.
- Services provided for communication not related to the insured's communications with healthcare or vocational providers.
- Travel time and travel related expenses, such as meals, parking, lodging, etc.
- Overhead costs, such as phone calls, photocopying and preparation of bills.

## **Billing Requirements for Interpretive Services**

Interpretive services providers use the miscellaneous bill form and billing instructions. These forms and instructions are available upon request from the Provider Hotline at 1-800-848-0811 or in Olympia at 360-902-6500. The Medical Aid Rules and Fee Schedules (MARFS) billing information is available online on the department's website at <http://www.LNI.wa.gov/ClaimsIns/Providers/Billing/FeeSched/2004/2004.asp>.

### **Billing for Direct Services**

#### *Individual interpretation services*

Services delivered for a single client include interpretation performed with the insured and a healthcare or vocational provider, form completion and wait time. Only the time spent actually delivering these services may be billed. Time is counted from when the appointment is scheduled to begin or when the interpreter arrives, whichever is later; to when the services ended. If breaks in service occur due to travel between places of service delivery, this time must be deducted from the total time billed. See the Billing Examples for further information.

#### *Group interpretation services*

When interpretive services are delivered for more than one person (regardless of whether all are injured workers and/or crime victims), the time spent must be pro-rated between the participants. For example, if 3 persons are receiving a one hour group physical therapy session at different stations and the interpretive services provider is assisting the physical therapist with all 3 persons, the interpretive services provider must bill only 20 minutes per person. The time is counted from when the appointment is scheduled to begin or when the interpreter arrives, whichever is later; to when the services end. See the Billing Examples for further information.

**At the department, the combined total of both individual and group services is limited to 480 minutes (8 hours) per day. Time billed over this daily limit will be denied.**

### **Billing for IME No Show**

Per WAC 296.20.010 (5) only services related to no shows for insurer requested IME's will be paid. The insurer will pay a flat fee for an IME no show. Mileage to and from the appointment will also be paid.

### **Billing for Mileage and Travel**

Insurers will not pay interpretive service providers for travel time or travel expenses such as hotel, meals, parking, etc. Interpretive service providers may bill for actual miles driven to perform interpretive services for an individual client or group of clients. When mileage is for services to more than one person (regardless of whether all are injured workers and/or crime victims), the mileage must be pro-rated between all the persons served. Mileage between appointments on the same day should be split between the clients. Mileage is payable for missed or no show appointments. See the Billing Examples for further information. **At the department, mileage over 200 miles per day will be reviewed for necessity, such as rare language and/or remote location.**

### **Document Translation Services**

Document translation is an insurer generated service. Payment will be made only if the translation was requested by the insurer. If anyone other than the insurer requests document translation, the insurer must be contacted before services can be delivered. **At the department, document translation over \$500 will be reviewed by the insured's claim manager.**

### **Usual and Customary Charges Billed to the Insurer**

All providers must bill their usual and customary fees when submitting bills to the insurer for services provided to injured workers or crime victims. The insurer will pay the lesser of the usual and customary charges or the department's fee schedule maximum (see WAC 296-20-010(2)).

## **Submitting Bills**

The department programs and Self-insured employers have different billing mechanisms. Providers should contact the self-insured employer directly with any questions regarding billing procedures on a self-insured claim. Providers may send bills electronically or on paper forms depending on the insurer billed.

### *Electronic Billing*

For State Fund claims, electronic billing reduces the time for bill processing and payment. To use electronic billing, providers must submit an "Electronic Billing Authorization" form (F248-031-000) to the *State Fund's* electronic billing unit. Forms are available online at <http://www.LNI.wa.gov/ClaimsIns/Providers/Billing/BillLNI/Electronic/default.asp>. This form can also be ordered from the department's warehouse (see information below). Providers interested in electronic billing can obtain more information by contacting:

Electronic Billing Unit  
Department of Labor and Industries  
PO Box 44263  
Olympia WA 98504-4263  
360-902-6511

The *Crime Victims Program* does not have electronic billing available.

### *Paper Billing*

*State fund and self-insurers* accept bills on the green "Statement for Miscellaneous Services" form. These are available as single sheets (F245-072-000) or continuous form (F245-072-001). The *Crime Victims Program* accepts bills on the pink "Statement for Crime Victim Misc Svces" form (F800-076-000). All of these forms can be obtained from any L&I field office, downloaded at <http://www.LNI.wa.gov/ClaimsIns/Providers/FormPub/Forms/default.asp> or ordered from the warehouse at:

Warehouse  
Department of Labor and Industries  
PO Box 44843  
Olympia WA 98504-4843

*When requesting forms, please indicate the form number and quantity needed.*

## **How Do Providers Send Bills to the Insurer(s)?**

Completed paper bills should be sent to:

### **State Fund**

Department of Labor and Industries  
PO Box 44269  
Olympia WA 98504-4269  
360-902-6500  
1-800-848-0811

### **Self-insurer**

Varies -To determine insurer call 360-902-6901 OR See Self-insurer list at <http://www.LNI.wa.gov/ClaimsIns/Providers/billing/billSIEmp/default.asp>

### **Crime Victims Program**

Department of Labor and Industries  
PO Box 44520  
Olympia WA 98504-4520  
360-902-5377  
1-800-762-3716

## Billing Examples

### Example # 1-- Individual Interpretive Services

Example Scenario	Time Frames	Type of Service	Code and units to Bill
Interpreter drives 8 miles from his place of business to the location of an appointment for an insured.	Not applicable	Mileage	Bill 8 units of 9986M
Insured has an 8:45 AM appointment. The interpreter and insured enter the exam room at 9:00 AM. The exam takes 20 minutes. The healthcare provider leaves the room for 5 minutes and returns with a prescription and an order for x-rays for the insured. The appointment ends at 9:30 AM.	8:45 AM To 9:30 AM	Individual interpretive services	Bill 45 units of 9989M
Interpreter drives 4 miles to x-ray service provider	Not applicable	Mileage	Bill 4 units of 9986M
Interpreter and insured arrive at the radiology facility at 9:45 AM and wait 15 minutes for x-rays, which takes 15 minutes. They wait 10 minutes to verify x-rays are okay.	9:45 AM to 10:25 AM	Individual interpretive services	Bill 40 units of 9989M
Interpreter drives 2 miles to pharmacy and meets insured.	Not applicable	Mileage	Bill 2 units of 9986M
The insured and the interpreter arrive at the pharmacy at 10:35 AM and wait 15 minutes at the pharmacy for prescription. The interpreter explains the directions to the insured which takes 10 minutes.	10:35 AM To 11 AM	Individual interpretive services	Bill 25 units of 9989M
After completing the services, the interpreter drives 10 miles to the next interpretive services appointment. The interpreter splits the mileage between the insured and the next client if this is not the last appointment of the day. (10 divided by 2 =5).	Not applicable	Mileage	Bill 5 units of 9986M
Total billable services for the above interpretive services.	Individual Interpretive Services Mileage		110 units 9989M 19 units 9986M

### Example #2 --Group Interpretive Services

Example Scenario	Time Frames	Type of Service	Code and units to Bill
Interpreter drives 9 miles from his place of business to the location of an appointment for three clients-two insured by state fund and another client. (9 divided by 3=3).	Not applicable	Mileage	Bill 3 units of 9986M to each state fund claim
The three clients begin a physical therapy appointment at 9 AM. The interpreter circulates between the three clients during the appointment which ends at 10 AM.	9 AM to 10 AM	Group interpretive Services	Bill 20 units of 9988M to each state fund claim
After completing appointment the interpreter drives 12 miles to next appointment location. The interpreter splits the mileage between the three clients and the next client if this was not the last appointment of the day. (12 divided by 2 =6; 6 divided by 3 = 2). If it is the last appointment of the day, the interpreter splits the total mileage by 3 (12 divided by 3 =4).	Not applicable	Mileage	Bill 2 units of 9986M to each state fund claim
Total billable services for the above interpretive services.	Group Interpretive Services Mileage Billed to EACH state fund claim		20 units 9988M 5 units 9986M

# Documentation Requirements for Interpretive Services

## Documentation for Interpretation Services

Direct interpretive services are documented on either the new L&I "Interpretive Services Appointment Record" form F245-056-000 **OR** the interpretive services provider's or language agency's encounter form. The L&I form is in this bulletin. The form can also be ordered from the L&I warehouse or downloaded at <http://www.LNI.wa.gov/ClaimsIns/Providers/FormPub/Forms/default.asp>.

Provider or language agency encounter forms used in lieu of the department form **must** have the following information:

- Claim number, claimant full name and date of injury in upper right hand corner of form.
- Interpreter name and agency name (if applicable).
- Encounter (appointment) information including:
  - Healthcare or vocational provider name
  - Appointment address (location)
  - Appointment date
  - Appointment start time
  - Interpreter arrival time
  - Appointment completion time
  - If a group appointment, total number of clients (not including healthcare or vocational providers) participating in the group appointment.
- Mileage Information including:
  - Miles from starting location (include street address) to appointment
  - Miles from appointment to next appointment or return to starting location (include street address)
  - Total miles
- Verification of appointment by healthcare or vocational provider
  - Printed name and signature of person verifying services
  - Date signed
  - **NOTE: The provider's encounter form must be signed by the healthcare or vocational provider or their staff to verify services including mileage for missed or IME no show appointments.**

## Documentation for Translation Services

Documentation for translation services must include:

- Date of Service
- Description of document translated (letter, order and notice, medical records)
- Total number of pages translated
- Total words translated
- Target and Source Languages

## Documentation Sent Separately from Bills

Do not staple documentation to bill forms. Send documentation separately from bills to:

### **State Fund**

Department of Labor and Industries  
PO Box 44291 Olympia, WA 98504-4291  
360-902-6500, 1-800-848-0811  
FAX 360-902-5445

### **Crime Victims Program**

Department of Labor and Industries  
PO Box 44520 Olympia, WA 98504-4520  
360-902-5377, 1-800-762-3716  
FAX 360-902-5333

**APPENDIX 4**

Workers' Comp Claims

For Medical Providers

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

Fraud & Complaints

Insurance for Business

Help for Crime Victims

WACs & RCWs

## Interpreter Services

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

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

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

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

**Do's & Don'ts** - What you can and cannot do as an interpreter. As an interpreter for an injured worker or crime victim, learn what is allowed.

**Becoming** - How to become an interpreter.

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

**Bill L&I** - How to bill L&I for your services. Information on how to bill L&I, what is covered and what forms to use.

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

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



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

### Interpreter Lookup Service

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

[Contact Us](#)

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

Search for an Approved Interpreter

Language:

Location or:  or

Last name:

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

### Search Results: Found 61 Intrepreters

Page 1 of 7

[Next >>>](#)

Jump to Page:

Results sorted by: City, A to Z

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



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Visit [access.wa.gov](http://access.wa.gov)

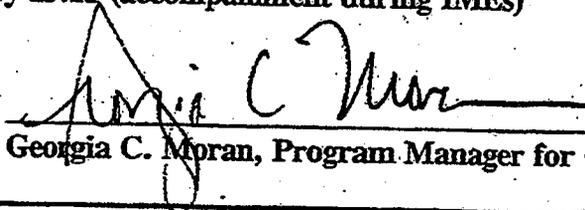
## **APPENDIX 5**

TASK 10.30-A

CLAIMS ADJUDICATOR

Section: Provider Information Effective: 1-1-99  
Title: Authorizing and Paying for Interpretive Services Cancells: Task 10.30-A dated 9-1-98

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

Approved by:   
Georgia C. Moran, Program Manager for Claims Administration

When a medical provider, vocational counselor or circumstances indicate that a worker needs interpretive services, the adjudicator:

1. Reviews the claim (on LINIS and WISE/fiche) to verify the need for interpretive services.
  - 1a. If the request comes from an interpreter and the file does not indicate previous verification of the need for an interpreter, contacts the medical or vocational provider (or refers the interpreter to the medical or vocational provider) to document the need.

If authorizing interpretive services	Follow Steps 2 to 6, below.
If denying interpretive services	Follow Steps 7 to 11, below.

**IF AUTHORIZING INTERPRETIVE SERVICES:**

2. On CLOG:
  - Creates a priority message documenting the phone call, the authorization of interpretive services, the worker's specific language, and if applicable, the dialect.
  - Documents the name and phone number of the interpreter, if known.
  - Creates a priority message to send all correspondence in the language or format the worker understands (unless the worker has retained an English language legal representative, per Policy 10.30, Exception 3a.).
  - Marks a "Y" to send a copy to the file.

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

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

6. Periodically reviews the need for interpretive services.

**IF DENYING INTERPRETIVE SERVICES:**

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

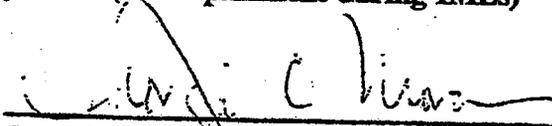
Package 115	Interpreter Services / Package includes all medical and vocational interpretive services
Package 116	Interpreter Services / IME "No Shows"

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

**TASK 10.30-B**

**MEDICAL TREATMENT ADJUDICATOR**

**Section:** Provider Information **Effective:** 9-1-98  
**Title:** Paying for Interpretive Services **Cancels:** None  
**See Also:** WAC 296-23-165 (miscellaneous services)  
WAC 296-23-255 (conditions for accompaniment)  
Policy 13.11 (accompaniment during IMEs)

**Approved by:**   
**Georgia C. Moran, Program Manager for Claims Administration**

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

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

## Letter Authorizing Interpretive Services

(date)

Claim Number:

(name of medical or vocational provider)  
(address)

Dear (name of medical or vocational provider):

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

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

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

Sincerely,

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

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

**APPENDIX 6**



# Management Update

Insurance Services: Claims Administration and Self-Insurance

## Interpreter and Translation Services to Workers

**Effective Date**  
08/13/2007  
REVISED 08/17/07

**Topic**  
Interpreter and  
Translation Services  
To Workers

**Issuing Authority**  
Sandy Dziedzic  
Cheri Ward  
Jean Vanek

The department or self-insured employer (SIE) (including the SIE third party administrator) will provide an interpreter to communicate with an unrepresented worker who has limited English-speaking proficiency or similarly limiting sensory impairment.

**NOTE:** Where a worker with limited English proficiency is represented by an attorney, the department or SIE may communicate through the attorney in English. It is the responsibility of the attorney representative to communicate with his or her client worker. If the represented worker with limited English proficiency contacts the department or SIE by phone or in person without counsel, an interpreter is authorized for the oral communications. The department or SIE is not required to provide interpreters for communications in relation to any proceedings at the BIA or Court.

When the worker requests interpreter services, the department or SIE may verify whether the worker needs assistance in translation. Workers can report limited English proficiency status on the Report of Accident, SIF2 form, or by notifying the department or SIE by phone or letter.

Limited English proficiency is defined as limited ability or inability to speak, read, or write English well enough to understand and communicate effectively. This includes most people whose primary language is not English. Services should also be provided to workers similarly impacted by hearing, sight, or speech limitations.

Interpreters are authorized when a limited English proficiency worker needs to communicate with the department or SIE, attend medical and vocational appointments, and at independent medical examinations (IME). Authorized interpreters must be provided by the department or SIE for IMEs.

Interpreter services also include written translation of necessary correspondence to and from the unrepresented limited English proficiency worker. Copies of both the original and translated versions of the document should be maintained in the claim file.

**Resources**

**AT&T Language Line Instructions**

[http://ohr.inside.ini.wa.gov/webhome/resource\\_docs/InterpreterService.htm](http://ohr.inside.ini.wa.gov/webhome/resource_docs/InterpreterService.htm)

**Online Reference System (OLRS)**

<http://olrs.apps-inside.ini.wa.gov/>

Claims Training Bulletin: Translation Process

Management Memo: Spanish Translations

Training Handout: Services for the Hearing & Speech Impaired

WAC 296-20-2025

Contact Claims Training if you have any questions.

*NOTE: This is an interim policy change. This issue has been referred to the policy committee to be included in upcoming revisions.*

**APPENDIX 7**



# The Report of Industrial Injury or Occupational Disease

Dept of Labor & Industries

AE 98129

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

## Keep your paperwork moving smoothly

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

## Worker instructions

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

## Health care provider instructions

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

## Where to send this report:

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

## How to get help:

Provider Hotline: 1-800-848-0811  
Easy -Access Line: 1-800-831-5227  
Information Hotline: 1-800-547-8367  
Information Online: [www.lni.wa.gov](http://www.lni.wa.gov)

## Legal Notices:

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

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

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

Check the status of a workplace injury

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

Send information to L&I

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

Technical Support Assistance:

call: 1--360-902-5999

e-mail: [websupport@LNI.wa.gov](mailto:websupport@LNI.wa.gov)

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



# REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE

WORKERS INFORMATION

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

HEALTH CARE PROVIDERS INFORMATION

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



# REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE

Claim # **AE 98129**

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

WORKERS INFORMATION

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

HEALTH CARE PROVIDERS INFORMATION

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

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

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

Check the status of a workplace injury

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

Send information to L&I

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

Technical Support Assistance:

call: 1-360-902-5999  
e-mail: [websupport@LNI.wa.gov](mailto:websupport@LNI.wa.gov)

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

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

# REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE



Language Preference (circle one)

English Spanish Russian Korean Chinese Vietnamese Laotian Cambodian Other:

Claim # **AE 98129**

**WORKERS INFORMATION**

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

**Keep your claim moving smoothly:**

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

**Legal Notices:**

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

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

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

Name \_\_\_\_\_ Date of injury \_\_\_\_\_

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

*This card does not mean your claim has been allowed.*

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

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

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

Check the status of a workplace injury

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

Send information to L&I

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

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

Technical Support Assistance:

call 1-360-902-5999  
e-mail [websupport@LNI.wa.gov](mailto:websupport@LNI.wa.gov)

### How to get help

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

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

### L&I claim information:

Easy-Access Line: 1-800-831-5227  
Information Helpline: 1-800-547-8367  
Information Online: [www.lni.wa.gov](http://www.lni.wa.gov)

**APPENDIX 8**



# TIME-LOSS NOTIFICATION

Unit	Work Position
Claim Number	
Date of Request	
Date of Injury	

**Worker instructions:** This is your request for time-loss compensation, which must be completed by you AND your doctor before we can consider you for benefits. If you are unable to work due to your workplace injury AND your employer is not paying your full wages:  
 1.) Fill in your section of the form, sign and date.  
 2.) Take it to your doctor to complete.

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

## Worker's Statement

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

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

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

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

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

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

Phone #	Date	Worker's signature
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## Doctor's Statement

Diagnosis due to workplace injury or illness:

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

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

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

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

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

Remarks

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



# NOTIFICACIÓN DE TIEMPO PERDIDO

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

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

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

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

## Declaración del trabajador

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

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

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

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

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

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

Nº de teléfono	Fecha	Firma del trabajador
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## Declaración del doctor

Diagnóstico por lesión o enfermedad ocupacional relacionada con el trabajo

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

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

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

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

Estas restricciones son: <input type="checkbox"/> Temporales <input type="checkbox"/> Permanentes <input type="checkbox"/> Indeterminadas	¿ Ha mejorado lo máximo posible la condición(es) del paciente debido a esta lesión? <input type="checkbox"/> Sí <input type="checkbox"/> No <input type="checkbox"/> Indeterminado
¿Resultará una incapacidad permanente de esta lesión?	<input type="checkbox"/> Sí <input type="checkbox"/> No <input type="checkbox"/> Indeterminado

Comentarios

Nombre del doctor (escriba con letra de molde o a máquina)	Número de cuenta del proveedor	Nº de teléfono
Dirección	Ciudad	Estado
Fecha	Firma del doctor	Código postal

**APPENDIX 9**



# WORKER VERIFICATION FORM



Unit	Work Position
Claim number	
Date of request	
Date of injury	

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

Name	Phone number
Address	
City	State ZIP

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

## Worker's Statement

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

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

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

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

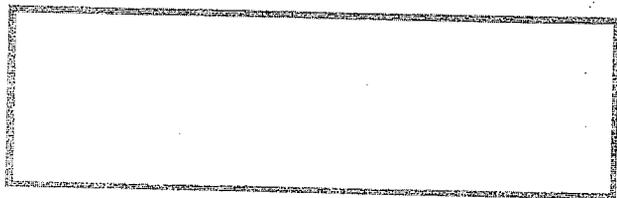
Are you still receiving these benefits?  Yes  No, date coverage ended \_\_\_\_\_

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

Phone #	Date	Worker's signature
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# FORMULARIO DE VERIFICACIÓN DE EMPLEO



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

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

Nombre	Número de teléfono		
Dirección			
Ciudad	Estado	Código postal	

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

## Declaración del trabajador

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

(mes, día, año)

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

Sí  No Por favor describa:

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

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

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

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

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

Nº de teléfono	Fecha	Firma del trabajador
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**APPENDIX 10**



WASHINGTON  
**COURTS**  
ADMINISTRATIVE OFFICE OF THE COURTS

## WASHINGTON STATE COURT INTERPRETER SERVICES

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# **LIMITED ENGLISH PROFICIENCY (LEP) PLAN**

July 2007

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

# LIMITED ENGLISH PROFICIENCY PLAN

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## I. INTRODUCTION AND PURPOSE OF LEP PLAN

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

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

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

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

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

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

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

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

## II. MANDATES

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### A. Interpreters in Court Proceedings

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

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

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

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

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

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

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<sup>3</sup> Federal Register, Vol. 67, No 117, 41471.

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

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

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

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

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

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

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<sup>4</sup> RCW 2.43.040(2).

<sup>5</sup> RCW 2.43.040(3).

<sup>6</sup> Federal Register, Vol. 67, No 117 at 41462.

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

*RCW 2.43.030 Appointment of Interpreter*

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

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

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

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

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

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

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

*record that the proposed interpreter:*

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

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

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

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

*RCW 2.43.080 Code of Ethics*

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

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

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

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

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

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<sup>7</sup> *Id.* at Section V, pp. 41459 – 41461.

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

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

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

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

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

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<sup>8</sup> Id. at pp. 41471 – 41472.

<sup>9</sup> Id.

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

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

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

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<sup>10</sup> Id.

<sup>11</sup> Id.



# Workers' Guide to

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## Industrial Insurance Benefits



## **Guide to Benefits**

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

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

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

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

### **For more information:**

Visit the web  
**InjuredWorker.LNI.wa.gov**

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

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## **What is Industrial Insurance?**

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

This "industrial insurance" covers medical expenses and pays a portion of wages lost while a worker recovers from a workplace injury. Insurance premiums paid by both workers and employers finance these benefits.

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

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

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

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

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

*Protest to L&I*

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

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

*Appeal to the Board after protest to L&I*

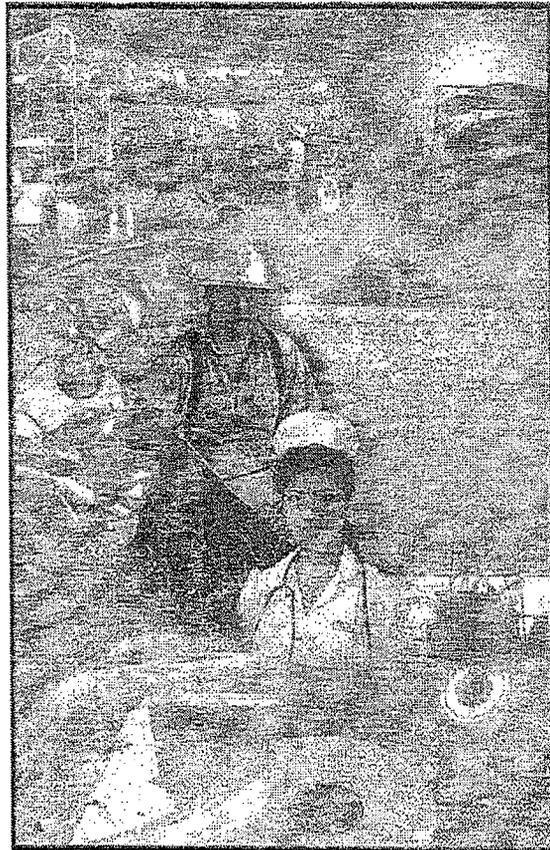
You must send your appeal to the Board within 60 days of receiving L&I's decision. Write to: Board of Industrial Insurance Appeals, 2430 Chandler Ct. SW, PO Box 42401, Olympia, WA 98504-2401. The Board's phone number is (360) 753-6823 or 1-800-442-0447 (in-state toll-free line).

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

# Guía de los trabajadores

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para los beneficios  
de seguro industrial



# Руководство для работников

## по выплатам промышленного страхования



Department of  
**LABOR AND  
INDUSTRIES**



### Руководство по страховым выплатам

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

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

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

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

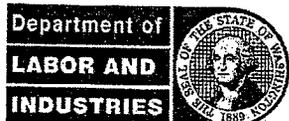
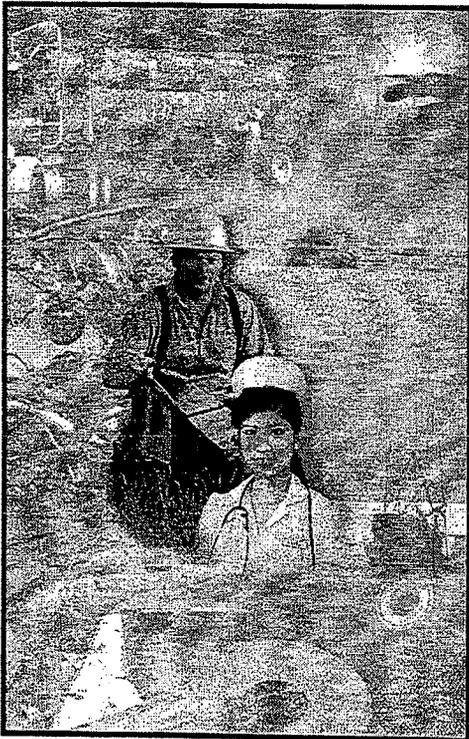
**Если вам нужна  
дополнительная информация:**

Смотрите сайт по адресу:  
[InjuredWorker.LNI.wa.gov](http://InjuredWorker.LNI.wa.gov)

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

# Tập Hướng Dẫn Công Nhân về

## Các Quyền Lợi Bảo Hiểm Kỹ Nghệ



## Tập Hướng Dẫn về Các Quyền Lợi

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

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

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

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

**Muốn biết thêm chi tiết:**

Hãy đến web  
**InjuredWorker.LNI.wa.gov**

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

ORIGINAL

NO. 59614-4-I

COURT OF APPEALS FOR DIVISION I  
STATE OF WASHINGTON

EMIRA RESULOVIC,	)	
	)	CERTIFICATE OF SERVICE
Appellant,	)	OF REPLY BRIEF OF
	)	APPELLANT
v.	)	
	)	
DEPARTMENT OF LABOR	)	
AND INDUSTRIES,	)	
	)	
Respondent.	)	
_____		)

FILED  
 COURT OF APPEALS DIV. #1  
 STATE OF WASHINGTON  
 2007 OCT 29 AM 11:05

ANN PEARL OWEN declares under penalty of perjury under the laws of the State of Washington that the following is true and correct.

1. Today the undersigned deposited into a United States Postal Service copies of the Reply Brief of Appellant and this Certificate of Service with proper postage and address affixed to:

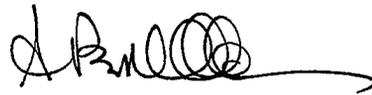
Masako Kanazawa & John R. Wasberg, AAGs  
Office of the Attorney General of Washington  
800 Fifth Avenue #2000  
Seattle, WA 98104-3188

2. Today the undersigned deposited into a United States Postal Service mailbox the original and one copy of the Reply Brief of Appellant

and the original and one copy of this Certificate of Service with proper postage and address affixed to:

Court of Appeals, Division I  
One Union Square  
600 University Street  
Seattle, WA 98101

3. Signed at Seattle, Washington this 27<sup>th</sup> of October, 2007.

A handwritten signature in black ink, appearing to read 'Ann Pearl Owen', with a long horizontal flourish extending to the right.

Ann Pearl Owen, WSBA 9033