

Addendum IV Preface
Response to Comments
R-28-02, Sign Language Interpreter Services
Post 15-Day

Addendum IV (Response to 15-Day Comments) of the FSOR provides the following information: the commenter number, the subject, the comment, and the response to comment. Under the comment column, different comments presented by a commenter are designated through the addition of a number after the Commenter #. For example, the different comments presented by Commenter #1 are designated as 1.1 and 1.2 which demonstrate the two different comments presented by the commenter. All of the comments received during the 15-day public proceedings were written testimony.

Response to Comments
R-28-02, Sign Language Interpreter Services
Post 15-Day

List of Commenters

1. Cris Eggers
2. Marilyn Holle

Commenter #1

Subject

Section 51202.5

(Sign Language Interpreters – Standards of Participation)

Comment

1.1. First, I fully support the changed language to mandate a certified interpreter for medically necessary services with one critical exception unless I am misunderstanding the language

Section 3 states: “The California Department of Rehabilitation at a competency Level III and possess a certificate from RI, NAD/CAD at a competency Level IV or V only”

If Section 3 means that The California Department of Rehabilitation is insufficient unless the interpreter also has RID or NAD/CAD certification, then yes, I support that.

The California Department of Rehabilitation competency at any level is insufficient to verify skills for a medical appointment.

I also support requiring NAD/CAD at levels IV and V only. Consistently I have seen Level II NAD/CAD interpreters not perform up to standards necessary to interpret health care appointments.

1.2. I am uncertain whether now is the appropriate time to comment on the rate. If it is, here are my comments on the rate: \$64.55 (for up to 2 hours) is less than half of the standard rate for sign language interpreters in California. If you did a survey of interpreting companies you would find that most charge \$75 an hour, with a 2 hour minimum and higher. I suppose an individual might work for \$64.55, but most physicians’ office staff do not have the time or the resources to research and find individual interpreters to provide the service. Even if they did figure out how to locate an individual interpreter, we typically pay a

minimum of \$90 per appointment to interpreters plus travel at \$35 per hour (if out our area) and mileage at the IRS set rate.

Finding interpreters who are certified and willing to work for that rate may prove to be impossible.

I believe a fair rate would be a \$150 for up to 2 hours of service plus an allowance of \$35 per hour for travel and mileage at the IRS rate. If due to State restrictions travel cannot be included then a rate of \$175 would at least ameliorate some of the travel time and costs when they occur.

Response to Comment

1.1. Thank you for your comment. The assumption has been made that this comment pertains to Section 51202.5(a)(3) referred to as Section 3 in the comment.

In response to 45-day public comments that discuss qualified interpreters the Department proposed through the 15-day public availability to delete the references to non-certified sign language interpreters under Sections 51098.5, 51202.5 and 51503.3, allowing only certified sign language interpreters to participate in the Medi-Cal program. However, upon review of a comment presented through the 15-day public availability and further consideration the Department has decided to maintain the existing regulatory language (the inclusion of all references to non-certified sign language interpreters and related language under these three sections).

Precluding non-certified sign language interpreters from the Medi-Cal Program could reduce access to health care for Medi-Cal beneficiaries requiring sign language interpretive services, when a sign language interpreter certified in the specific language spoken by the beneficiary is not available.

The inclusion of non-certified sign language interpreters will not only encourage beneficiaries to seek necessary health care and ensure greater access to health care, it is also consistent with 1) provisions under Civil Code, Section 54.1 and Title 28, CFR Section 36.303 that specify individuals with disabilities are entitled to the full and equal access to accommodations and to effective communication between a public accommodation (provider) and an individual with a disability, and 2) the Department's mission to preserve and improve the health of Californians, while ensuring access to comprehensive health services.

Section 51202.5(a)(3) requires a sign language interpreter holding a current certification by the California Department of Rehabilitation at a competency Level III; to also possess a certificate from RID, NAD/CAD at a competency Level IV or V. Therefore the understanding of the language, as presented in the comment, is correct.

1.2 Thank you for your comment. Changes to reimbursement rates are not within the scope of this regulatory action.

Commenter #2

Subject

Section 51098.5

(Sign Language Interpreter Services – Definition)

Comment

2.1. The proposed changes to Section 513098.5 – namely by adding a proposed subsection “c” - addresses the concerns raised under “Add subsection (c) to Section 51098.5” in our April 18, 2007, comments. Thank you.

2.2 We are, however, very concerned about the additional changes eliminating the option of noncertified interpreters and the fact that this change is proposed without any statement or explanation about the reason for the change. In our April 18 comments we noted,

We are also pleased that DHS continues to recognize that Medi-Cal beneficiaries may opt for noncertified interpreters. This is particularly important for Medi-Cal beneficiaries who learned their sign language in another country and for whom there may be no effective certified interpreter.

To underscore the variety of sign languages for which sign language interpreter services may be needed, we refer you to the Ethnologue listing of sign languages:

http://www.ethnologue.com/show_family.asp?subid=90008

and to the references cited in the Wikipedia entry listing the different sign languages:

http://en.wikipedia.org/wiki/List_of_sign_languages

The certification agencies cited in the proposed regulations at Section 51202.5(a) certify for ASL or English transliteration interpretation. To our knowledge they do not certify for Taiwanese or Mexican Sign Language or other foreign sign languages. For instance, *Ethnologue* indicates that the Mexican Sign Language (LSM) with its origins in French sign language has only 14% intelligibility overlap with ASL. The Nicaraguans have two distinct indigenous sign languages with no overlap with any other sign language. The Taiwanese have a sign language with about half its origins from Japanese sign language and the balance indigenous with some mainland Chinese influences.

While the majority of our clients needing non-ASL sign-language have been those needing Mexican Sign Language (lenguaje de signos Mexicanos), we have had clients who needed interpretation in their Taiwanese, Pilipino and Eritrean sign languages. The noncertified interpreter category including reimbursement category cannot be eliminated unless the regulations provide for some means of paying for sign languages other than American Sign Language and English Transliteration and paying for interpretation when there are no certified interpreters for foreign sign languages.

We recommend the following changes:

- (a) Provide that the interpreters may be non-certified by putting back the deleted language in Sections 51202.5(a) and 51503.3(a). We would not object if the non-certified category were limited to persons who interpreted in a sign language other than American Sign Language or English transliteration.
- (b) Reinstate the reimbursement categories of “non-certified sign language interpreter” in Section 51503.3(b) and (c).

Response to Comment

2.1 The assumption has been made that this comment pertains to Section 51098.5. The Department appreciates this comment of support.

2.2 Thank you for your comment. In response to 45-day public comments that discuss qualified interpreters the Department proposed through the 15-day public availability to delete the references to non-certified sign language interpreters under Sections 51098.5, 51202.5 and 51503.3, allowing only certified sign language interpreters to participate in the Medi-Cal program. However, upon review of a comment presented through the 15-day public availability and further consideration the Department has decided to maintain the existing regulatory language (the inclusion of all references to non-certified sign language interpreters and related language under these three sections).

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The inclusion of non-certified sign language interpreters will not only encourage beneficiaries to seek necessary health care and ensure greater access to health care, it is also consistent with 1) provisions under Civil Code, Section 54.1 and Title 28, CFR Section 36.303 that specify individuals with disabilities are entitled to the full and equal access to accommodations and to effective communication between a public accommodation (provider) and an individual with a disability, and 2) the Department's mission to preserve and improve the health of Californians, while ensuring access to comprehensive health services.

The reimbursement category of "non-certified sign language interpreter" in Sections 51503.3(b) and (c) remain.