Justice In Jeopardy - 2007
Court Interpreter Funding

Presented by
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Board for Judicial Administration

Washington State
Administrative Office of the Courts

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Interpreter Funding Proposal

- **State Funding for use of Certified and Registered Interpreters**
  - Sets standard hourly rate at$50.00 per hour.
  - Sets travel time and travel cost reimbursement standards.
  - State payment of 50% of the cost of certified and registered interpreters.
  - Requires local courts to report on interpreter usage.

Interpreter Funding Proposal

- **Registered Interpreters**
  - Pass the written exam
    - English Proficiency
    - Legal Vocabulary
    - Ethics
  - Two years Interpreting experience
  - Oral Proficiency Interview
  - Criminal history
  - Continuing Education
  - Discipline Policy

Interpreter Funding Proposal

- **Partial State funding for Sign-Language Interpretation services**
  - State payment of 50% of the cost of sign language interpretation services when the interpreter is referred/scheduled through the DSHS Office of the Deaf and Hard of Hearing (DHOH) or local community service center and the interpreter is compensated at the rate established by DHOH.

Interpreter Funding Proposal

- **Partial State Funding for in-court telephone interpretation services.**
  - A state contract with an in-state interpreter service to provide certfied interpreters for in-court proceedings with the statepaying 50% of the cost.

Interpreter Funding Proposal

- **Non-court telephone interpretation services**
  - State payment of 50% of the cost of telephone interpreter services provided under the state contract in non-court settings (i.e., at the counter)
- **Translation of Forms**
  - State funding for translation of standard forms for use by all courts.

Interpreter Funding Proposal

- **Limited English Proficiency (LEP) Plans**
  - State funding for assistance in developing and implementing local LEP plans under the Federal DOJ guidelines for 90 courts.
- **AOC Web Site Language Access**
  - State funding for the translation of AOC website content into non-English languages.

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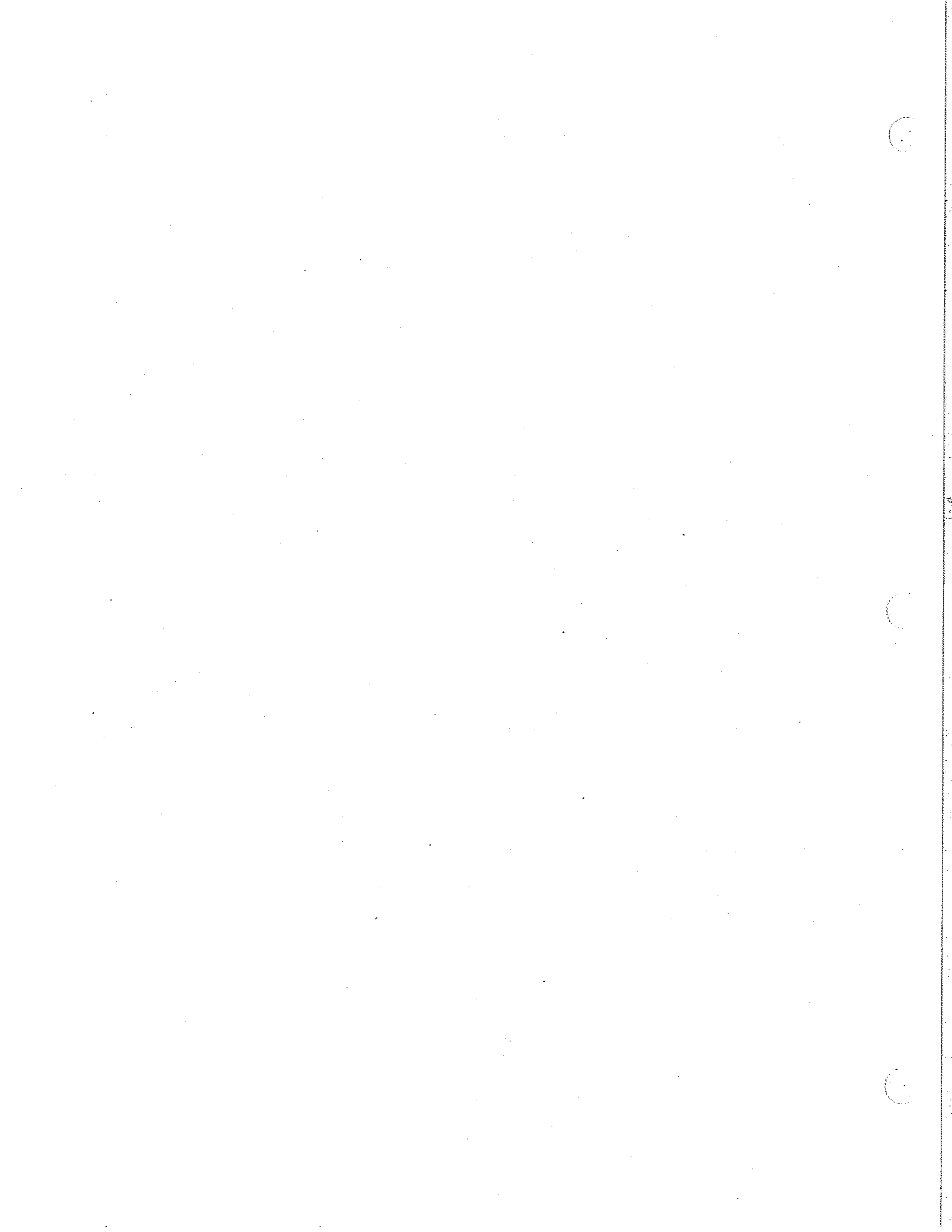
Contact Information



2007 -- Court Interpreters

A $7.8 million funding proposal will be submitted in 2007 to seek state participation in funding language interpreters, the translation of pattern forms and the development and implementation of local Limited English Proficiency (LEP) Plans.

The centerpiece of the proposal establishes a payment rate of $50 per hour for certified and registered interpreters with the state reimbursing counties and cities for 50 percent of the cost.

The expected results from the interpreter pay proposal are:

- The quality and equality of LEP services across the state will improve, providing all citizens with meaningful access to the courts and justice.
- The use of certified and registered interpreters will increase because courts will have a financial incentive to find and retain certified interpreters.
- As courts express a preference for certified and registered interpreters in the market place, practicing non-certified and non-registered interpreters will take the steps necessary to become certified or registered.
- The $50 hourly rate will improve the financial viability of pursuing interpreting as a career choice, increasing the available labor pool.
- The reimbursement and reporting process will create a database on interpreter need and use encompassing the entire state and provide the information needed to continue to assess and improve the provision of interpreter services in the courts.

The proposal contains several other elements which are summarized in Appendix C.

For more information regarding the court interpreter funding proposal, contact:

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Court Interpreter Proposal Summary

Description	FY 2008	FY 2009	Total
Certified Interpreters -- State payment of 50% of the cost of interpreter fees and mileage at an established $50/hour rate.	$2,135,347	$2,260,956	$4,396,303
Registered Interpreters -- State payment of 50% of the cost of interpreter fees and mileage at an established $50/hour rate.	$381,642	$1,272,177	$1,653,819
Certified/Registered Interpreters by Telephone -- State payment of 50% of the cost of telephone interpreter services at an established state contract rate for in-court interpreting.	$70,300	$91,950	$162,250
Language Line Telephone Interpreter Services -- State payment of 50% of the cost of telephone interpreter services at an established state contract rate for out-of-court interpreting (i.e., public service counter).	$337,417	$337,417	$674,834
Qualified Visual Language Interpreters -- State payment of 50% of the cost of interpreter fees and mileage for sign language interpreters referred by the Office of Deaf and Hard of Hearing (ODHH) at the rate set by ODHH pursuant to Chapter 2.42 RCW.	$239,680	$239,680	$479,360
Court Program Analyst -- A two year 0.5 FTE project position to assist courts in developing local LEP plans and to aid in the administration of all areas funded in the proposal.	$35,748	$35,748	$71,496
Limited English Proficiency (LEP) Plan Implementation -- Available for distribution as cash assistance grants to local courts to implement services under LEP plans.	$67,500	$67,500	$135,000
Forms Translation and Maintenance -- Cost of translating and on-going maintenance of pattern forms into seven languages.	$49,581	$62,562	$112,143
Website Content Translation -- Translation of AOC public website content into seven languages providing basic court functional information and links to language specific resources.	$8,318	$2,773	$11,090
Fiscal Analyst -- 1.0 FTE fiscal staff for processing reimbursements to local courts for certified and registered interpreters.	$47,355	$47,355	$94,710
TOTAL	**$3,372,888**	**$4,418,118**	**$7,791,006**

Financing Interpreter Services in Health Care

Cynthia E. Roat,

In Washington State

- Operating budgets
- State Medicaid funds
- Federal Medicaid match (through interlocal agreements)

Federal Reimbursement

- Federal matching funds available for IS to patients on Medicaid or SCHIP.
- The size of the match depends on how the state chooses to characterize the funds. As a "cov... service" the match equals the % of the state's Medicaid match. An "administrative match" is 50...
- Public reimbursement for interpreter services now available in ID, KS, HI, MA, ME, MN, MT, NH, UT, VT, WA. VA and TX have pilots. DC and NC are considering it.

Models for Reimbursement

- HI – agencies paid directly at $...
- ID – providers reimbursed at $7/ho...
- NH – Interpreters are paid directly at $...
- WA -- Public entities get 50% match on a... related costs; for non-public entities, servi... are coordinated through brokers (which get an flat fee) and agencies (which get $32/hr).

October, 2006 Cynthia E. Roat, MPH 4

What about Commercial Insurers?

- Some Health Maintenance Organizations pay for interpreter... (Kaiser, Group Health, Americare)
- California Blue Cross suit may draw attention to language access.

October, 2006 Cynthia E. Roat, MPH 5

Options for Additional Funding

- Seek participation by private i...urers?
- Capture additional federal Medica... match
- Increased state appropriation?
- Seek participation from employers with a... concentration of LEP workers to help fun... interpreting needs for those employees without coverage?
- Grant funding for innovations?

October, 2006 Cynthia E. Roat, MPH 6

Options for Lowering Costs

- Lower costs through group contracting for services
- More appropriate mix of remote and in-person interpreting.
- Centralized recruiting, screening, training and assessment

Questions?

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MEDICAID/SCHIP REIMBURSEMENT MODELS FOR LANGUAGE SERVICES
2005 UPDATE

In 2000, the Centers for Medicare & Medicaid Services (CMS) reminded states that they could include language services as an administrative or optional covered service in their Medicaid and State Children's Health Insurance Programs, and thus directly reimburse providers for the costs of these services for program enrollees. Yet only a handful of states are directly reimbursing providers for language services. Currently, 11 states are providing reimbursement – Hawaii, Idaho, Kansas, Maine, Massachusetts, Minnesota, Montana, New Hampshire, Utah, Vermont and Washington. Virginia anticipates beginning a pilot project during the spring of 2006. And Texas recently enacted legislation requiring a pilot program that is anticipated to begin later this year.

The remainder of this issue brief outlines existing state mechanisms for directly reimbursing providers for language services for Medicaid and SCHIP enrollees.[1] (For more information on funding for Medicaid and SCHIP services, see *How Can States Get Federal Funds to Help Pay for Language Services for Medicaid and SCHIP Enrollees?*[2]). While only a few states currently provide reimbursement, the examples below can help you identify promising ways to develop a campaign and reimbursement mechanism that will meet your state's reimbursement needs and goals.

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211 N. Columbia St, 2nd Floor · Chapel Hill, NC 27514 · (919) 968-6308 · Fax (919) 968-8855

State	For which Medicaid and SCHIP enrollees does the state pay for language services?	Which Medicaid and SCHIP providers can submit for reimbursement?	Who does the State reimburse?	How much does the state pay for language services provided to Medicaid/SCHIP enrollees?	How does the state claim its federal share – as a service or administrative expense[3]?	What percentage of the state's costs does the federal government pay (FY 2006)[4]?
HI	Fee-for-service[5] (FFS)	FFS	language agencies[6]	$36/hour (in 15 min. increments)	Service	Medicaid (MA) – 57.55% SCHIP – 70.29%
ID	FFS	FFS	providers	$12.16/hour	Service	MA – 70.36% SCHIP – 79.25%
KS	Managed care	Not applicable (state pays for language line)	EDS (fiscal agent)	Spanish – $1.10/minute; other languages – $2.04/minute	Admin	50%
MA	FFS	hospitals & psychiatric facilities	hospitals & psychiatric facilities	Determined by Medicaid agency[7]	Unknown	50%
ME	FFS	FFS	providers	Reasonable costs reimbursed	Service	MA – 63.27% SCHIP – 74.29%
MN	FFS	FFS	providers	lesser of $12.50/15 min or usual and customary fee	Admin	50%
MT	all Medicaid	all[8]	interpreters	lesser of $6.25/15 minutes or usual and customary fee	Admin	50%
NH	FFS	FFS	interpreters (who are Medicaid providers)	$15/hour $2.25/15 min after first hour	Admin	50%
TX	Undecided	Undecided	Undecided	Undecided	Undecided	Unknown
UT	FFS	FFS	language agencies	$22/hour (phone) $39/hour (in-person)	Service	MA – 70.14% SCHIP – 79.10%
VA	FFS	FFS	Area Health Education Center & 3 public health departments	Reasonable costs reimbursed	Admin	50%
VT	All	All	Language agency	$15/15 min. increments	Admin	50%
WA	All	public entities	public entities	50% allowable expenses	Admin	50%
WA	All	non-public entities	brokers; interpreters & language agencies	Brokers receive an administrative fee Interpreters/language agencies receive $32/hour	Admin	50%

Hawaii[i]

The state contracts with two language service organizations to provide interpreters. The eligible enrollees are Medicaid fee-for-service patients or SCHIP-enrolled children with disabilities. The state pays the language service agency a rate of $9 per 15 minutes. If an interpreter is needed for more than 1¼ hours, a report must be submitted stating the reason for the extended time. Interpreters who are staff or bilingual providers are not reimbursed.

Interpreters are allowed to charge for travel, waiting time, and parking. The state has guidelines on billing procedures and utilization, and language service organizations are expected to monitor quality and assess the qualifications of the interpreters they hire. The state spends approximately $144,000 per year on interpreter services for approximately 2570 visits (approximately $56 per visit). Hawaii receives reimbursement for the interpreter services as a "covered service" (similar to an office visit or other service covered by the state's Medicaid plan). The state receives federal reimbursement of approximately 57% for Medicaid patients and 70% for SCHIP patients.

The costs of providing interpreters for in-patient hospital stays are included in hospitals' existing payment rates; separate reimbursement is not allowed. QUEST, the state's Medicaid managed care program, includes specific funding in its capitated rates for enabling/translation services (based on volume and claims submission data).

Idaho

Idaho began reimbursing providers for the costs of interpreters prior to 1990. The state reimburses for interpreters provided to fee-for-service enrollees and those participating in the Primary Care Case Management program. Providers must hire interpreters and then submit claims for reimbursement. Providers must use independent interpreters; providers can only submit claims for reimbursement for services provided by members of their staff if they can document that the staff are not receiving any other form of wages or salary during the period of time when they are interpreting. No training or certification requirements for interpreters currently exist.

Hospitals may not submit claims for reimbursement for language services provided during in-patient hospital stays. The costs of language services are considered part of the facilities' overhead and administrative costs.

Idaho reimburses the costs of language interpretation at a rate of $12.16 per hour (this is the same rate for sign language interpreters). For FY 2004[9], the state spent $37,621 on language services for 4137 encounters. For the first half of FY 2005, the state spent $28,334 for 2808 encounters.

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i The information from Hawaii is from 2002. The author made repeated attempts to contact Hawaii agency staff to update this information but received no response.

Kansas

In 2003, Kansas began offering Medicaid managed care healthcare providers access to a telephone interpreter/language line. The service is provided to primary care providers (for example, individual doctors and group practices, rural health centers, federally qualified health centers, Indian health centers, advanced registered nurse practitioners, and Nurse Mid-wives) and specialists.

The state began providing this service in part because of federal Medicaid managed care regulations and in response to results from a provider survey. The survey results – collected from 87 providers – identified that Spanish is the most frequently spoken language requiring interpretation services. Other languages are less frequently encountered. Nineteen providers reported that they never needed access to an interpreter. Twenty-five providers reported needing an interpreter 1-10 times per month and seven providers responded they needed an interpreter over 100 times per month.

The state's Medicaid fiscal agent, EDS, administers the language line. The provider calls into the Managed Care Enrollment Center (MCEC) and provides a password to the customer service rep (CSR). The CSR then connects to the language line and the provider uses their services. The bill is returned to the MCEC who then passes it on to the state Medicaid agency for reimbursement. The state utilizes two language lines – Propio Language Services for Spanish interpretation (charging $1.10/minute) and Certified Languages International for other languages ($2.04/minute).

From September 2003 through June 2004, Kansas spent $28,736.26 on the language line. Recently, however, the state has been averaging payments of $4,000 per month.

Maine

The state reimburses providers for the costs of interpreters provided to Medicaid and SCHIP enrollees. The selection of the interpreter is left up to the provider. Providers are encouraged to use local and more cost-effective resources first, and telephone interpretation services only as a last resort. Providers then bill the state for the service, in the same way they would bill for a medical visit, but using a state-established interpreter billing code. When using telephone interpretation services, providers use a separate billing code and must submit the invoice with the claim for reimbursement.

The provider must include a statement of verification in the patient's record documenting the date and time of interpretation, its duration, and the cost of providing the service. The state reimburses the provider for 15-minute increments. The reimbursement does not include an interpreter's wait time; travel time is not specifically addressed although its policy states that it will not reimburse an interpreter who is transporting an enrollee. The state no longer has an established reimbursement rate but reimburses "reasonable costs". The provider must ensure

that interpreters protect patient confidentiality and have read and signed a code of ethics. The state provides a sample code of ethics as an appendix to its Medical Assistance Manual.

The state is explicit that family members and friends should not be used as paid interpreters. A family member or friend may only be used as an interpreter if: 1) the patient requests it; 2) the use of that person will not jeopardize provider-patient communication or patient confidentiality; and 3) the patient is informed that an interpreter is available at no charge.

Hospitals (for language services provided during an in-patient stay), private non-medical institutions, nursing facilities, and intermediate care facilities for the mentally retarded may not bill separately for interpreter costs. Rather, costs for interpreters for these providers are included in providers' payment rates. *(MaineCare Benefits Manual,* formerly *Medical Assistance Manual,* Chapter 101, 1.06-3.)

Massachusetts

Currently, Massachusetts reimbursement for language services in Medicaid is limited to hospital emergency rooms and in-patient psychiatric institutions. No direct reimbursement is provided for other in- or out-patient services.

Massachusetts has been a leader in the development and provision of language services in clinical health settings. As part of the state's Determination of Need process, whenever a provider seeks to add or expand services or transfer ownership, it must reassess health care needs in the community and respond accordingly. Since 1989, most hospitals have submitted plans for providing interpreter services as part of this process. Through this process, over 50 of the state's 80 hospitals have addressed the provision of interpreter services, training for staff, and tracking of services.

In April 2000, the legislature took additional steps to address the need for competent emergency room interpreter services when it passed Chapter 66 of the Acts of 2000, "An Act Requiring Competent Interpreter Services in the Delivery of Certain Acute Health Care Services." This law mandates that "every acute care hospital . . . shall provide competent interpreter services in connection with all emergency room services provided to every non-English-speaker who is a patient or who seeks appropriate emergency care or treatment." The law also applies to hospitals providing acute psychiatric services. The state attorney general is authorized to enforce the law, and individuals who are denied emergency services because of the lack of interpreters are also given legal standing to enforce their rights.

The FY 2005 state budget included an appropriation of $1.1 million to reimburse hospitals and acute psychiatric facilities for the costs of language services. The Division of Medical Assistance is making "supplemental payments" to "qualifying" hospitals for interpreter services provided at hospital emergency departments, acute psychiatric facilities located within acute hospitals, and private psychiatric hospitals. The distribution is done based on an "equity formula" comparing expenses submitted by each qualifying hospital to the total expenses

submitted by all qualifying hospitals. In 2003, Massachusetts received approval of three State Plan Amendments (one each for psychiatric hospitals, and in-patient and out-patient acute-care hospital care) to obtain federal reimbursement.

In addition, the state's Medicaid agency considers interpreter costs in its DSH (Disproportionate Share Hospital) distribution formula. Medical interpreter costs are identified by the hospitals on their cost reports, which are used to determine unreimbursed costs for DSH purposes. Distribution of DSH funds is then based on these unreimbursed costs. For purposes of its Uncompensated Care Pool (UCP), Massachusetts allows hospitals to include the costs of language services in the base costs used to develop Medicaid rates and the UCP cost-to-charge ratio.

Website: http://www.state.ma.us/dph/omh/interp/interpreter.htm

Minnesota

In 2001, Minnesota began drawing down federal matching funds for language interpreter services for Medicaid and SCHIP fee-for-service and managed care enrollees. All fee-for-service providers can submit for reimbursement for out-patient services. The state's managed care capitation rate includes the costs of language services.

Under Minnesota's provisions, providers must both arrange and pay for interpretation services and then submit for reimbursement. The state established a new billing code and pays either $12.50 or the "usual and customary charge" per 15-minute interval, whichever is less.

Providers may only bill for interpreter services offered in conjunction with an otherwise covered service. For example, a physician may bill for interpreter services for the entire time a patient spends with the physician or nurse, and when undergoing tests, but not for appointment scheduling or interpreting printed materials. Providers serving managed care enrollees must bill the managed care plan. The managed care plan has the responsibility, pursuant to its contract with the state, to ensure language access; these costs are included in its payment rate.

Hospitals may obtain reimbursement for interpreter costs provided for out-patient care. The costs of language services in in-patient settings are bundled in the hospital payment rate. This payment rate, called the DRG (Diagnosis Related Group), does include a differential to address the costs of language services. When the DRG rates are set by the state, it considers historical data and makes rate adjustments. Although there are not specific adjustments for language services; these costs are generally assumed to be included in the hospital's overhead costs. But because the state bases the DRG on each hospital's own expenses (rather than peer groups or one DRG for the entire state), if a particular hospital has high language services costs, these should be included in the hospital's overall expenses, resulting in a higher DRG rate to compensate.

In FY 2004[10], the state spent $1,339,000 on language services for fee-for-service Medicaid enrollees. Approximately 12,000 distinct recipients received interpreter services for a total of approximately 35,000 encounters.

Website: http://www.dhs.state.mn.us

Montana[ii]

Montana began reimbursing interpreters in 1999 following an investigation by the federal HHS Office for Civil Rights. Montana pays for interpreter services provided to eligible Medicaid recipients (both fee-for-service and those participating in the Primary Care Case Management program) if the medical service is medically necessary and a covered service. The interpretation must be face-to-face; no reimbursement is available for telephone interpretation services. The interpreter must submit an Invoice/Verification form signed by the interpreter and provider for each service provided; Montana then reimburses the interpreter directly. Reimbursement is not available if the interpreter is a paid employee of the provider and provides interpretation services in the employer's place of business, or is a member of the patient's family.

The reimbursement rate is the lesser of $6.25 per 15-minute increment or the interpreter's usual and customary charge. Interpreters may not bill for travel or waiting time, expenses, or for "no-show" appointments. The interpreter can bill for up to one 15-minute increment of interpreter time outside the Medicaid provider's office (i.e., at the Medicaid client's home or pharmacy) for each separate interpreter service performed per day. This time is specifically used for the interpreter to exchange information and give instructions to the Medicaid client regarding medication use.

The state does not have any interpreter certification requirements. Thus it is the responsibility of the provider to determine the interpreter's competency. While a state referral service operates for sign language interpreters, no equivalent exists for foreign language interpreters.

New Hampshire

New Hampshire has had policies to reimburse sign language and foreign language interpreters since the 1980's. While the state initially reimbursed for interpreters as a covered service, it currently reimburses interpreters as an administrative expense.[11]

Currently, interpreters are required to enroll as Medicaid providers, although through an abbreviated process since they do not provide medical services. Each interpreter has a provider identification number and can bill the state directly for services provided. The state contracts with EDS – a company that oversees all provider enrollment and billing – which also oversees

ii The information from Montana is from 2002. The author made repeated attempts to contact Montana agency staff to update this information but received no response.

interpreter enrollment. The state reimburses interpreters $15. for the first hour, and $2.25 for each subsequent quarter hour ($25/hour for sign language interpreters).

Interpreters can bill directly or can work for an organization that coordinates interpreter services. Each interpreter, however, must individually enroll as a Medicaid provider regardless of who bills for reimbursement. Currently, interpreters (or language services organizations) can submit claims for reimbursement for language services only for clients of fee-for-service providers; interpreters cannot submit claims for hospital (in- or out-patient services) and community health center clients. At the present time, the state has 76 interpreters enrolled as Medicaid providers; training programs funded in part by the state have helped increase this number. The state is also examining ways to lessen the administrative burdens on interpreters and increase the availability of Medicaid interpreters.

In FY 2003[12], the state spent $5,870 on interpreters. Eighty-two Medicaid recipients received interpreter services for a total of 310 encounters. In FY 2004, the state spent $9,017 on 157 Medicaid recipients for 605 encounters.

Texas

In the Spring of 2005, Texas enacted legislation establishing a Medicaid pilot project for reimbursement for language services.[13] The project will initially involve five hospital districts. The Health and Human Services Commission is tasked with developing the project and is in its initial planning stages.

The pilot project will be financed through intergovernmental transfers from the participating hospital districts matched with federal Medicaid funds. The program will be evaluated by 2007 and will expire on September 1, 2009, if no further action is taken.

Utah

Utah covers medical interpreter services as a covered service; in FY 2005, the state will receive a 72% federal matching rate for Medicaid interpretations and 80% for SCHIP expenditures. The state pays for interpreters when three criteria are met: 1) the client is eligible for a federal or state medical assistance program (including Medicaid and SCHIP); 2) the client receives services from a fee-for-service provider; and 3) the health care service needed is covered by the medical program for which the client is eligible.

The state contracts with five language service organizations (covering 27 languages) to provide in-person and telephone interpreter services to fee-for-service Medicaid, SCHIP, and medically indigent program patients. The health care provider must call the language service organization to arrange for the service. The language service organizations are reimbursed by the state an average of $22./visit for phone interpretation and $35./hour for in-person interpretation, with a one-hour minimum. The state will enter into new contracts for language

services in 2006. If the language agencies do not provide the needed language, the provider may use a telephone interpretation service.

Providers cannot bill Medicaid directly, and they do not receive any rate enhancements for being bilingual or having interpreters on staff. Rather, interpreters bill the Medicaid agency. Hospitals can utilize Medicaid-funded interpreters for fee-for-service Medicaid enrollees for all services covered by Medicaid, both in- and out-patient. Hospitals may not use the Medicaid language services for Medicaid managed care enrollees. For enrollees in managed care, Utah requires health plans to provide interpretation services for their patients as part of the contract agreements. For services covered by Medicaid but not the health plan,[14] the state will pay for interpreters.

In FY 2003, Utah spent $46,700 for interpretation although the amount nearly doubled in FY 2004 to $87,500. (Utah's costs for sign language interpretation were approximately $8,000 in FY 2003 and $13,000 for FY 2004 although these figures include non-Medicaid expenses as well.)

Website: http://health.utah.gov/medicaid/html/interpreter.html

Vermont

Vermont began reimbursing for interpreters provided to Medicaid clients a few years ago. Medicaid providers hire interpreters and can submit the costs of interpreters along with the medical claim. Reimbursement is limited to $15. for each 15-minute increment. The state does not reimburse for travel or waiting time. Further, reimbursement is not allowed for bilingual staff that serves as interpreters.

While providers may hire any interpreter, services are primarily provided by one language agency. The state Agency for Health Services has a contract with the language agency to meet its interpretation needs and informs providers of this agency. However, providers must make their own arrangements with the agency. The agency also has a statewide telephonic interpretation contract to provide interpreters in rural areas but providers who use telephonic interpretation cannot currently submit for Medicaid reimbursement.

Virginia

Virginia anticipates beginning a pilot project for reimbursement shortly. Senate Joint Resolution 122 (2004) directed the Department of Medical Assistance Services (DMAS) to seek reimbursement for translation and interpreter services from the Centers for Medicare & Medicaid Services. The state will submit claims to CMS as part of its administrative expenses. The project will begin in Northern Virginia.[15] Other areas may join as the project proceeds and DMAS intends to eventually expand the program statewide.

The state has a contract with Virginia Commonwealth University (VCU) to facilitate DMAS payment for these services. VCU is the contracting entity for the Virginia statewide area health education centers program, one of which (Northern Virginia AHEC, hereinafter AHEC) is participating in the pilot project. In addition to AHEC, three health departments (Alexandria City, Arlington County, and Fairfax County) will provide language services. The three health departments currently offer language services through the use of salaried staff, contracted staff, telephonic resources, and administration of services. AHEC will both provide language services and act as a broker to receive calls from recipients requesting language services; confirm that a covered medical service is involved; and schedule the language services. AHEC will aggregate the claims from itself and the health departments and submit them to DMAS through VCU. AHEC and the three health departments will contribute the state's share of costs and obtain 50% federal reimbursement. This agreement is similar to Washington state's Intergovernmental Transfer (see below).

DMAS will require the participating interpreters and translators to meet proficiency standards, including a minimum 40-hour training for interpreters. The state will reimburse for the reasonable costs incurred by the providers. It anticipates that each health department will have contracts to provide telephonic and/or in-person interpreters; since the health department contracts and language agencies will differ, the state chose not to set a reimbursement rate but rather to monitor spending and evaluate whether a state-wide reimbursement rate should be implemented at a later date. There is no formal budget for the pilot project.

Website: http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/SD222004/$file/SD22.pdf

Washington

Providers that are not public entities.[16] In 1998, the Department of Social and Health Services' (DSHS) Language Interpreter Services and Translation (LIST) program began contracting with language agencies through a competitive procurement process. Beginning in 2003, the state changed its system to contract with nine regional brokers for administrative scheduling of appointments. The brokers contract with language agencies. In FY 2004,[17] the Department provided interpreters for over 180,000 encounters. Interpreters are paid for a minimum of one hour; mileage is paid if an interpreter has to travel more than 15 miles.

Rather than require clients to schedule interpreters, providers – including fee-for-service providers, managed care organizations, and private hospitals – call a regional broker to arrange for an interpreter. The state requires providers to schedule interpreters to avoid interpreters independently soliciting work and/or acting as advocates rather than interpreters. Once services are provided, the language agency then bills the broker for the services rendered. For interpretation services provided in a health care setting, the claim form requires the name of the referring physician, as well as the diagnosis or nature of illness or injury.

The state pays the brokers an administrative fee; the brokers then pay the language agencies. For Medicaid and SCHIP enrollees, the state obtains federal reimbursement for these

costs. Currently, payments to language agencies are $32. per hour. The state spends approximately $978,080. a month on all DSHS language services. The Medicaid portion is currently 79% of the total spending but 50% of the Medicaid funds are reimbursed by the federal government.

Washington has a comprehensive assessment program for interpreters. The state requires medical interpreter certification for interpreters in the seven most prevalent foreign languages in Washington: Spanish, Vietnamese, Cambodian, Lao, Chinese (both Mandarin and Cantonese), Russian, and Korean. Interpreters for all other languages must be qualified rather than certified (because of limited resources available for full certification in all languages). The state has given tests for 88 languages plus major dialects and offers statewide testing at five sites, with four days of testing per month per site. Additional tests are available upon request. The state also offers emergency/ provisional certification for those who have passed the written test but await oral testing, and in other limited situations.

Website: http://www.wa.gov/dshs/list

Public hospitals and health departments. Washington has a separate reimbursement program for interpreter services provided at government and public facilities, such as public hospitals or local health jurisdictions. These entities can receive federal reimbursement for expenses related to language services if they enter into a contract (e.g. interlocal or intergovernmental agreement) with the state and agree to:

- provide local match funds (locally generated private funds);
- ensure that the local match funds are not also used as matching funds for other federal programs;
- ensure that the local match funds meet federal funding requirements;
- ensure that the local match funds are within the facilities' control;
- use only certified interpreters (as certified by Washington's LIST program);
- coordinate and deliver the interpreter services as specified by the state;
- collect, submit and retain client data as required; and
- accept all disallowances that may occur.

These facilities receive reimbursement for both direct (e.g. interpreter services provided as part of the delivery of medical/covered services) and indirect (e.g. time spent coordinating or developing interpreter programs, billing, equipment purchasing) interpreter expenses. The facilities receive reimbursement for 50% of their costs – the federal administrative share. Because these entities act as the state for the purposes of reimbursement, the 50% state "match" is paid by the facility.

Website: http://maa.dshs.wa.gov/InterpreterServices

Conclusion

Given the requirements of Title VI of the Civil Rights Act of 1964 that health care providers who receive federal funds ensure access to services for people with limited English proficiency, more states should access available federal funds to ensure that their agencies – and the providers with whom they contract – have the means to hire competent medical interpreters. The use of competent interpreters can improve the quality of care, decrease health care costs by eliminating unnecessary diagnostic testing and medical errors, and enhance patients' understanding of and compliance with treatments.

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[1] This document outlines information gathered as of August 31, 2005.

[2] This document is available in the *Language Services Action Kit* from NHeLP and The Access Project at http://www.healthlaw.org/library.cfm?fa=detail&id=71337&appView=folder.

[3] States can draw down Medicaid/SCHIP funding in two ways – as a "covered service" (paying for the cost of a service, such as a doctor's office visit or a hospital stay) or as an "administrative expense" (paying for the costs of administering the program). For information *see How Can States Get Federal Funds to Help Pay for Language Services for Medicaid and SCHIP Enrollees?* in NHeLP's *Language Services Action Kit, available at* http://www.healthlaw.org/langaccess/resources.html#nhelp.

[4] For "covered services", the federal reimbursement rate varies from 50-83%, based on the state's per capita income. For "administrative" expenses, every state receives 50% of its costs from the federal government.

[5] "Fee-for-service" generally refers to services *not* provided through a managed care organization, community health center or in-patient hospital settings. Providers agree to accept a state-set "fee" for the specific "service" provided.

[6] Language agencies are organizations that contract with and schedule interpreters. They may also oversee assessment and/or training.

[7] Each hospital or psychiatric facilities' amount is based on a percentage of the difference between the qualifying entity's total Medicaid costs and total Medicaid payments from any source.

[8] Providers who have staff interpreters cannot submit for reimbursement.

[9] FY 2004 ran from July 1, 2003 through June 30, 2004.

[10] FY 2004 ran from July 1, 2003 through June 30, 2004. This figure may be low because providers have one year from the date of service to submit claims.

[11] NH switched from a covered service to an administrative reimbursement due to a change in CMS policy; subsequently CMS clarified that states can get reimbursed at the covered service rate. Since New Hampshire's FMAP for medical services, 50%, is the same as for administrative expenses, no practical difference exists in New Hampshire. For SCHIP, considering language services as a covered service would increase the federal share of costs.

[12] The state's fiscal year runs from July 1 through June 30.

[13] S.B. No. 376 passed the Senate on March 17 and the House on May 9, 2005. A separate bill, H.B. No. 3235, was also enacted requiring provision of interpreter services to deaf and hard of hearing Medicaid patients subject to the availability of funds.

[14] For example, pharmacy, dental and chiropractic services.

[15] The project will initially include Arlington County, Fairfax County, Falls Church and Alexandria City.

[16] Washington has two reimbursement mechanisms. The first is for non-public entities – this includes most fee-for-service providers, managed care providers, and non-public hospitals.

[17] The fiscal year runs from July 1, 2003 through June 30, 2004.