

**NOTICE OF PUBLIC MEETING
WORKERS' COMPENSATION
MANAGEMENT-LABOR ADVISORY COMMITTEE
INTERPRETERS SUBCOMMITTEE**

August 28, 2009
11:00 a.m. – 12:00 p.m.
Conference Room 260, Labor & Industries Building
350 Winter Street NE, Salem, Oregon

Committee Members Present:

Greg Miller, Gunderson LLC, Portland
Mike O'Rourke, Plumbing and Steamfitters UA 290, Tualatin
Jeri Ray, Timber Products Company, Springfield
Sheri Sundstrom, Hoffman Construction Company, Portland
Linda Barno, ESIS, Inc., Portland
Tracy Brill, Portland Fire Fighters Association, Portland
John Kirkpatrick, IUPAT District Council, Portland
Bob Shiprack, Oregon Building Trades Council, Portland
Lon Holston, Laborers' International, Local 483, Portland

Committee Members Excused:

Cory Streisinger, Ex-Officio Member, Department of Consumer and Business Services, Salem
Kathy Nishimoto, Duckwall-Pooley Co., Hood River

INTERPRETERS SUBCOMMITTEE

Lon Holston, subcommittee chair, called the meeting to order at 10:35 a.m. There was unanimous consent by the subcommittee that the minutes from July 23, 2009 be adopted.

Mr. Holston reported discussing the use and cost of interpreters and the problems they run into with variety of state departments. Mr. Holston emphasized the intention of the subcommittee is to work with the different departments around the State of Oregon. He also discussed problems with some departments using outdated ODS computer programs. Mr. Holston wants to ensure everyone has the option of requesting an interpreter in a cost effective way and understands the process.

Kara Olsen, Workers' Compensation Division (WCD), provided follow up information to questions raised at the July 23rd subcommittee meeting. Ms. Olsen clarified Washington State receives approximately 7,600 bills per month for interpreter services and in 2008 it cost them over nine million dollars. Most of the cost lies in the individual services. Interpreters are paid eighty eight cents per minute and that begins either when the appointment is scheduled to begin or when the interpreter arrives whichever is later.

Mr. Holston asked whether the cost of an interpreter includes mileage. Ms. Olsen said mileage is billed separately at the state rate and it is the next greatest cost for interpreters.

Lou Savage asked if the cost in Washington is a cost for the entire system. Ms. Olsen explained that the cost doesn't include the self-insured interpreter cost, which in 2008 made up about 28% of the claims.

Mr. Holston asked if the State of Washington utilizes in-house staff and how they handle that? Ms. Olsen doesn't know but can find out. She did point out that the interpreters in Washington are certified and have to go through a certification process.

Sheri Sundstrom asked the department to obtain the statute that outlines the requirements in Washington.

Mr. Holston asked for a clarification of the in-house and out-of-house interpreter certification process. Ms. Olsen explained that in-house interpreters on a help line are not necessarily certified, but the out-of-house interpreters, third party entity, are certified through the same process.

Jeri Ray asked how many workers are represented by the nine million dollar cost. Ms. Olsen said she will find out.

Ms. Olsen explained that the Department of Human Services and the Judicial Department have services for the hearing impaired and noted that many of the ASL interpreters are certified through a national organization. Ms. Olsen pointed out written testimony provided by Cedric Claims.

Abbie Herman and Tanya Beck, Workers' Compensation Board (WCB), provided an overview of their program. They explained the board does have a program to obtain interpreter services for hearings and mediations. The board uses qualified interpreters throughout the state, all in person, for non- English speakers or hard of hearing people. Ms. Herman explained requests for interpreters come through a form, by phone, mail or email. WCB has a list of contracted interpreters and they use this list to find interpreters for the requested language. If the language is Spanish, Russian or Vietnamese, it is a certified interpreter (as defined by the courts). If it is a different language and there is no certified interpreter they will use qualified interpreter as defined in ORS chapter 45.

Ms. Herman explained the board considers mediations as part of their conflict resolution duty. In about 50% of the time families will bring a friend or family to interpret. The other times families ask the board to provide a mediator. The cost of interpreters runs from \$25 – \$75 dollars an hour depending on difficulty. The board always uses local interpreters. If only out of town interpreters can be obtained, the board will compensate for travel. Ms. Herman said the total cost of interpreter services to the agency in 2008 was \$69,592. Ms. Herman pointed out the goal for the interpreter in a hearing is to be neutral and not to be an advocate for anyone.

Greg Miller asked if a family member serving as an interpreter might present a conflict of interest. Ms. Herman explained that family member wouldn't be asked to interpret for a hearing but it is OK to use a family member for a mediation, which is a very informal process. Ms.

Herman said sometimes people will bring their own interpreter or a family member to a hearing just for the preparation part, not for the hearing.

Dr. David Cardona, Department of Human Services, explained that there has been an ongoing effort by many people in the state to get unified force of interpreters for medical hearings. The process began in 1978, but it didn't go anywhere. In July 2001 Senate Bill 790 allowed the establishment of a program for certified interpreters. It took about six years to get to what it is now. The OAR 333-000 is very specific. It was a breakthrough, because the only existing model to follow was the Washington model. The law was created to benefit limited English proficiency patients. Initially people with limited knowledge of the foreign language were interpreting without really having knowledge of the terminology used in health care.

Mr. Cardona explained that in 2006 there was effort to bring everybody together, followed by a discussion to make the certification mandatory. It was not created as a mandate but instead it was created as a voluntary law. Everything was completed in 2006.

Mr. Cordona said that currently there is law and the question is how to implement the voluntary law. The first part is a registry for interpreters. DHS offers a registration for interpreters through their website for a fee of \$25. In addition to registration, there is an orientation consisting of four courses related to standards of practice for health care and information about the profession. Mr. Cordona explained that DHS only has very few registered interpreters who have completed the process. Many are still in the process. The registration is not open to the public yet.

Mr. Cordona explained that the second piece of the qualification process is a language proficiency testing. DHS needs to design a test for proficiency testing. It is very complicated to create certification test. DHS will use companies with experience in language testing. One is the American Council for Testing Languages and the other company is Language Link. Each test costs approximately one hundred thousand dollars to create and DHS will need to have six languages, because it hasn't been done nationally. However there is a national effort at the moment to create a test. Mr. Cordona expressed his belief that if everybody works together combining manpower and funds could accomplish the goal of creating the certification test. He noted that interpreters are discouraged by the number of fees that are required for certification and registration.

Mr. Holston pointed out that MLAC is an advisory committee and can only make recommendations to the legislature. He also said that MLAC would like to help with this project.

Kelly Mills, Oregon Judicial Department (OJD), explained that OJD has well established interpreter programs. The programs offer Spanish, Russian and Vietnamese, the languages used most in courts. Ms. Mills explained that this program came from collaboration with other states. In 1995 a code of ethics was established that outlined what the interpreters had to know as well as outlining the difference between interpreters and translators and the skills required for them. The OJD Interpreter Program provides certification and training for interpreters. The OJD Program is a member of the National Consortium for Language Access in the Courts. Members of this organization pool money to develop tests, because it is very expensive to develop tests.

OJD has a public roster of interpreters and this roster is available to the public. Ms. Mills further noted that the standard cost for an interpreter is \$32.50 per hour with a two hour minimum. The training provided for interpreters includes renewals and continuing education. Another area of service to the court is scheduling interpreters. OJD has staff of nine schedulers that process fee statements from interpreters and staff interpreters. In 2008 OJD had 27,300 requests for interpreters statewide. OJD also uses remote interpreting and telephonic or video relay.

Mr. Savage asked about the difference between certified and qualified interpreters. Ms. Mills explained that qualification happens with a judge in a courtroom when the judge asks questions to qualify the interpreter for the particular hearing.

Ms. Ray asked how do interpreters get their court experience. Ms. Mills explained that OJD has a mentor program and newly certified interpreters are required to participate in court observation as part of their certification.

Bruce Smith, Access to Justice Subcommittee of Workers' Compensation section of the Oregon State Bar, informed the MLAC committee about a survey that identified barriers to justice. Among the areas identified was the use of interpreters in hearings, in terms of the appropriate limits of the use of official interpreters beyond just interpreting testimony. Mr. Smith explained that interpreting in medical exam context involves mostly independent medical exams by insurance companies. Mr. Smith also offered assistance to MLAC in looking at these issues to come up with the best means in identifying the problems with non-English speaking persons in the system.

Mr. Holston asked if the Access to Justice Subcommittee has studied the consistency in interpreter use in each step of the way, from doctor's visits to hearings at the board. Mr. Smith said it's been discussed and he expressed his personal opinion – that in the real world the consistency in interpreting can really only be found when the interpreter is a family member. Mr. Smith expressed his belief the really important aspects are the interpreters are qualified and certified. It is critically important for non-English speakers that the interpreter is not only fluent with the language but also have knowledge of the system.

Maria Michalczyk, registered nurse, representing herself. Ms. Michalczyk has been involved in healthcare interpreting since 1992 and developed OHSU's healthcare interpreter program. Ms. Michalczyk was the major force behind the healthcare interpreter certification law and for eight years served as the chair for the Oregon Healthcare Interpreter Council.

Ms. Michalczyk noted that there is no local or national standardization of healthcare interpreting. Over the past five to ten years there has been a lot of activity in uniting the Healthcare Interpreting profession. Only three states, Oregon, Washington and Massachusetts, have healthcare interpreting laws. Ms. Michalczyk emphasized her support for the need of standardization of the interpreter services related to workers' compensation by testing and training. Ms. Michalczyk believes that interpreters need to be tested by one accepted standard. She pointed out the importance of the information transmitted by the interpreter being accurate and within the context of cultures and languages of all the speakers to whom the interpreter is

providing services. Ms. Michalczyk further encouraged the subcommittee to embrace the existing Oregon healthcare interpreter certification law and working from the law.

Mr. Savage asked how to make sure if there is a certification program on day one there are at least some qualified people. Ms. Michalczyk responded that the Oregon interpreter law is voluntary and it will gradually be phased in, and expressed her hope that there would be an amendment that would make it mandatory.

Brian Griffiths, Black Diamond, said they primarily do medical translation and cover over two hundred different languages and dialects, and arrange contracted interpreter services for anybody who needs them. Mr. Griffiths explained that Black Diamond uses certified and qualified interpreters and they do work on a federal level. All translations are backed by a certificate of authenticity. For medical interpreters Black Diamond uses American Translators Association (ATA) certified interpreters. Black Diamond found the certification the ATA provides for medical interpreting covers everything needed. Mr. Griffiths also noted Black Diamond's insurance policy in the amount of a million dollars per occurrence for interpreting that covers the client.

Mr. Savage asked if Black Diamond selects their interpreters from a panel of interpreters? Mr. Griffiths explained that Black Diamond has a database of interpreters they use.

Ron Vrooman, A and R Enterprises Inc., expressed his belief that workers' compensation interpreters certification should be mandatory. Mr. Vrooman explained the difference in medical and workers' compensation interpreting. He presented the subcommittee with a handout of his suggestions of what should be done in the interpreter issue research and a list of stakeholders to contact for input.

Ms. Sundstrom expressed concerns about his characterization of insurance companies. She emphasized the importance of understanding how the system works. She further pointed out the many difficulties and ramifications in the system and the need for qualified interpreters that understand the field. Ms. Sundstrom noted that the interpreter is an independent party, somebody objective, non-bias, not advocating for the worker but only interpreting.

Mr. Vrooman responded that insurers are interested in cost. There is a level of cost that is built into everything that the insurance companies do. They provide services and make profit. Cost is super important to the insurance companies.

Chris Davie, SAIF, explained that SAIF receives about forty thousand claims a year. SAIF allows workers to indicate their preference for language use on their 801 claim form. Mr. Davie noted that workers opt for Spanish language preference in about ten percent of the claims. The next highest number is Russian, but only very small number, next is Vietnamese. Spanish is the major one.

Mr. Davie explained the history of the evolution of language assistance at SAIF. About fifteen years ago SAIF started using AT&T language line for \$1.50 a minute for foreign language

interpreting. Ms. Davie said this is an easy, reliable way to communicate in a foreign language, but there are some limitations. Several years ago SAIF started translating documents with thirty five standard letters that cover different situations in Spanish. Four years ago SAIF started recruiting Spanish speaking claims adjusters. SAIF provides a class of all Spanish speaking adjusters. At the moment SAIF launched a Spanish language worker website. The cost was only two thousand dollars to translate the website. Next year SAIF will begin Spanish language training classes for SAIF employees. Today SAIF provides seventeen claim employees fluent in Spanish, four in Russian, one in Ukrainian, one in Portuguese, and German.

Mr. Davie explained that the version of documents in English is the legally binding version, Spanish is for the worker. Mr. Davie further noted that if a worker calls and requests an interpreter for a medical exam SAIF routinely provides that. Sometimes workers prefer to use family and friends. Mr. Davie described SAIF's cost of interpreter services for the first seven months of this year, which was \$456,000 dollars.

Mr. Davie noted that SAIF has no objection to Workers' Compensation division's certifying interpreters and if interpreters want to be paid for interpreter services they would need to be on that list. He would like to preserve the right of the worker to choose. SAIF would like to see a fee schedule for interpreting services. Mr. Davie disagreed with Mr. Vrooman's characterization of what workers' compensation interpreter should be. SAIF sees workers' compensation interpreters as someone who will facilitate the communication between professionals.

Mr. Savage asked for a breakdown of the \$456,000 in interpreter expenses. Mr. Davie explained that \$64,000 dollars was for telephone interpretation, \$4,000 dollars for investigation interpretation services and the remaining \$396,000 dollars was for medical payments.

Mr. Holston asked whether SAIF has ever been billed by a relative of an injured worker for interpreting? Mr. Davie replied that it has never happened.

The meeting adjourned at 12:32 p.m.