

Chapter HFS 77

INTERPRETER SERVICES FOR HEARING IMPAIRED PERSONS

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Note: Chapter HSS 267 was renumbered chapter HFS 77 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, December, 1996, No. 492.

HFS 77.01 Authority and purpose. This chapter is promulgated under the authority of s. 46.295 (6), Stats., for the purpose of implementing s. 46.295, Stats., by:

- (1) Establishing criteria and procedures for providing reimbursement from the appropriations under s. 20.435 (6) (a) and (hs), Stats., to interpreters for hearing impaired persons for the provision of interpreter services;
- (2) Providing prompt payment to interpreters for services rendered, whether or not an agency that requested those services makes final payment for them; and
- (3) Providing final payment for interpreter services which are approved by the department and for which no other agency is financially responsible.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.02 Applicability. This chapter applies to hearing impaired persons in need of interpreter services, to interpreters providing those services, and to individuals and city, town, village, county, state, federal and private agencies that request interpreter services under s. 46.295, Stats.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.03 Definitions. In this chapter:

- (1) "Certified interpreter" means a person who has been awarded a certificate of interpreting proficiency by the national registry of interpreters for the deaf, inc.
- (2) "Department" means the Wisconsin department of health and family services.
- (3) "Emergency" means a situation in which the life, liberty, health or property of a hearing impaired person or a member of a hearing impaired person's family is in immediate danger.
- (4) "Final payment" means payment by the department to an interpreter which the department will not seek to recover by billing an individual or agency.
- (5) "Hearing impaired person" means a person who, because of some pathological or functional cause, requires spoken language to be transformed into a visual or tactile mode by an interpreter.
- (6) "Non-profit organization" means an organization exempt from federal income taxation under 26 USC 501.
- (7) "Oral interpreter" means an individual who is able to paraphrase or translate a spoken message, with or without voice and with natural lip movement, for a hearing impaired person and is able to understand the lip movement or voice of a hearing impaired person and repeat it exactly, or in essence, for the benefit of a third person.
- (8) "Sign language interpreter" means an individual who is able to interpret or transliterate, using manually-coded English or American sign language, and is able to repeat exactly, or in essence, the signs or the verbalization of a hearing impaired person for the benefit of a third person.

(9) "Verified interpreter" means an interpreter who has been awarded recognition as having a level of interpreting proficiency by the Wisconsin quality assurance program.

(10) "Wisconsin quality assurance program" means a program administered by the department to determine and verify the level of competence of interpreters who are not certified by the national registry of interpreters for the deaf, inc.

(11) "Work authorization form" means a form which contains information regarding an interpreter's assignment and on which an interpreter provides information used by the department to determine the amount of reimbursement due to an interpreter for services rendered, and to bill the person or agency which requested interpreter services.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.04 Criteria for reimbursement of interpreter services. (1) GENERAL REQUIREMENTS. (a) The department shall provide funds from the appropriations under s. 20.435 (6) (a) and (hs), Stats., to reimburse interpreters for hearing impaired persons in accordance with the requirements of this chapter.

(b) Funds appropriated under s. 20.435 (6) (a) and (hs), Stats., may be used for final payment for interpreter services only when the individual or agency requesting interpreter services is not required by state or federal law to provide those services or when no other source of funding is applicable. If an individual or agency is required by state or federal law to provide interpreter services or if an individual or agency has funding available to pay for those services, the department shall reimburse the interpreter from the appropriation under s. 20.435 (6) (a) and (hs), Stats., and shall subsequently bill the agency or individual in accordance with s. HFS 77.08.

(c) Reimbursement for interpreter services under this chapter is contingent upon the availability of funds in the appropriations under s. 20.435 (6) (a) and (hs), Stats.

(2) INTERPRETERS ELIGIBLE FOR REIMBURSEMENT. (a) Except as provided under par. (b), the department may reimburse only interpreters scheduled by the department under s. HFS 77.06.

(b) The department may reimburse an interpreter who was contacted by an individual or agency other than the department in an emergency if the interpreter contacts the department by the end of the working day following the emergency to request department approval for the completed assignment and, if the assignment is approved, to obtain a work authorization form.

(3) CIRCUMSTANCES ELIGIBLE FOR REIMBURSEMENT. (a) In accordance with s. 46.295 (2), Stats., the department shall give priority to pay fees charged by interpreters in the following circumstances, in the following order:

1. In emergencies;
2. When medical, mental health, alcohol and drug abuse, psychiatric and psychological services are needed;
3. In obtaining legal services and during civil court proceedings;
4. In matters involving law enforcement personnel; and

5. In matters involving any federal, state, county or municipal agency.

(b) The department may also reimburse interpreters for services provided in connection with the following activities, if the department's prior approval has been obtained:

1. Communications involving financial matters;
2. Communications involving housing and shelter;
3. Meetings relating to the development of new programs, agencies or organizations to promote awareness of issues relating to hearing impaired persons;
4. Meetings, workgroups or conferences sponsored by statewide, nonprofit organizations whose missions relate specifically to hearing impaired persons. Final payment for the purposes specified under this subdivision is limited to \$250 per quarter. Any additional costs shall be covered by the requesting organization. To request funding for interpreter services under this subdivision, an organization shall, at least 6 weeks in advance of the date interpreter services are needed, submit to the department a letter of request. The letter of request shall include proof of the organization's exemption from federal income taxation and shall confirm that the organization receives no more than \$2,000 annually from the federal government or state government, or both. Local chapters of statewide organizations are not eligible for funding under this subdivision;

5. Meetings, workgroups or conferences sponsored by nonprofit organizations that do not receive federal funds, do not administer a statewide program, or whose mission is not specifically related to hearing impaired persons, but are serving the hearing impaired. Final payment for the purposes specified under this subdivision may not exceed \$250 per quarter. Any additional costs shall be covered by the requesting organization. To request funding under this subdivision, an organization shall, at least 6 weeks in advance of the date interpreter services are needed, submit a letter of request to the department. The letter shall include proof of the organization's exemption from federal income taxation and shall confirm that the organization receives funds of \$2,000 or less annually from the federal government or state government, or both. Local chapters of statewide organizations are not eligible for funding under this subdivision;

6. Matters relating to the welfare of minor children of deaf parents, including meetings relating to day care or child care, attendance at parental support groups or parenting classes and meetings with schools meeting the criteria in sub. (1) (b);

7. After school activities for children, such as boy scouts, girl scouts and 4-H while an alternate source of funding is being pursued or if all other sources of funding have been exhausted; and

8. Job-related appointments for hearing impaired persons who are not Wisconsin division of vocational rehabilitation clients.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.05 Requests for interpreter services.

(1) Any individual or any city, town, village, county, state, federal or private agency may request, orally or in writing, that the department schedule an interpreter to provide interpreter services. The request shall specify:

- (a) The name of the person or persons requiring interpreter services;
- (b) The date, location and time of the interpreting assignment;
- (c) The contact person or agency representative;
- (d) The party responsible for payment, if known;
- (e) A brief statement of the reason for or purpose of the request; and
- (f) The approximate duration of the interpreting assignment.

Note: Requests for interpreter services may be made to the Division of Supportive Living Regional Office Coordinator for Hearing Impaired Services. To find out which Regional Office Coordinator to contact, write or phone the Division of Supportive Living, P.O. Box 7852, Madison, Wisconsin 53707, (608) 243-5625 or (608) 243-5717 (TDD).

portive Living, P.O. Box 7852, Madison, Wisconsin 53707, (608) 243-5625 or (608) 243-5717 (TDD).

(2) Except in an emergency, a request under sub. (1) shall be received by the department at least 48 hours in advance of the time an interpreter is needed.

(3) Within 5 working days after receipt by the department of a request for interpreter services under sub. (1), the department shall grant or deny the request. If the request is denied, the department shall send the requestor a written notice of the reasons for denial, the right to request a hearing under s. HFS 77.10 (2) and the procedure for requesting a hearing.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.06 Scheduling interpreters. (1) SIGN LANGUAGE INTERPRETERS. Except as provided under subs. (3) and (4), the department shall schedule sign language interpreters listed in the registry under s. HFS 77.09 (1) according to availability in the following order:

(a) Interpreters certified by the national registry of interpreters for the deaf, inc., in the following order:

1. An interpreter who has a specialist certificate: legal, for an appointment relating to legal services;
2. An interpreter who has a comprehensive skills certificate or a reverse skills certificate, if a reverse skills certificate interpreter can independently interpret for the assignment;
3. An interpreter who has an interpretation and transliteration certificate; or
4. An interpreter who has an interpretation certificate or a transliteration certificate; or

(b) Interpreters verified by the Wisconsin quality assurance program, in the following order:

1. An interpreter who is a communication assistant II;
2. An interpreter who is a communication assistant I; or
3. An interpreter who is a probationary communication assistant.

(2) **ORAL INTERPRETERS.** Except as provided under subs. (3) and (4), the department shall schedule oral interpreters listed in the registry under s. HFS 77.09 (1) and certified by the national registry of interpreters for the deaf, inc., according to availability in the following order:

- (a) An interpreter who has an oral interpreter certificate: comprehensive or an oral interpreter certificate: visible to spoken if the interpreter with an oral interpreter certificate: visible to spoken can independently interpret for the assignment; or
- (b) An interpreter with an oral interpreter certificate: spoken to visible.

Note: A description of the skills included under each category of certification and verification specified above is available from the Office for Deaf and Hard of Hearing, P.O. Box 7852, Madison, Wisconsin 53707.

(3) **SPECIAL NEEDS.** If the department finds that the hearing impaired person's communication needs require the services of an interpreter who has a reverse skills certificate in conjunction with an interpreter identified under sub. (1) (a) or (b) or the hearing impaired person's preferred noncertified or nonverified interpreter, the department shall schedule the interpreter or interpreters required.

(4) **EXCEPTIONS.** Subsections (1) and (2) do not apply if the department finds that:

- (a) The hearing impaired person's method of communication is nontraditional or uses signs known only to family members or associates;
- (b) The hearing impaired person can understand only a particular noncertified oral interpreter;
- (c) The method of communication of the hearing impaired person is based on a language other than English or American sign language; or
- (d) The hearing impaired person's request for a specific interpreter is justified based on that interpreter's understanding of the

subject matter, particular communication method, or unique suitability for a particular appointment as determined by the person or agency requesting interpreter services.

(5) CANCELLING AN APPOINTMENT. (a) Prior to cancelling an appointment for which an interpreter has been scheduled, the person or agency which requested interpreter services shall provide the department with a minimum of 24 hours' notice. The department shall make a reasonable effort to inform the interpreter of a cancellation. The department shall encourage the person or agency which requested interpreter services to contact the other parties involved to cancel the appointment.

(b) When a person or agency which requested interpreter services misses an appointment without providing prior notification to the department, the department shall issue a letter of warning. If a person or agency which requested interpreter services misses a second appointment, the department may not schedule an interpreter until the bill for the second missed appointment is paid by the person or agency.

(c) An interpreter who needs to cancel an appointment shall notify the department at least 24 hours before the time of the appointment.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.07 Reimbursement policies and procedures. **(1) SCHEDULE OF RATES.** The department shall pay interpreters according to a schedule of rates developed by the department and based on certification and verification levels, with the levels requiring the most skill receiving the highest rates of pay.

(2) REIMBURSEMENT PROCEDURES. (a) In order to be reimbursed for interpreter services, an interpreter shall return a completed and signed work authorization form to the department within 30 days following completion of an interpreting assignment.

(b) Within 30 days after receiving a completed work authorization form, the department shall pay the interpreter in accordance with this section and ss. 16.528 and 16.53, Stats.

(c) The department shall provide an annual income summary for tax purposes to each interpreter no later than January 31 of each year.

(3) REIMBURSEMENT POLICIES. (a) An interpreter shall be paid the hourly rate determined in accordance with sub. (1) to cover the period of time beginning when the interpreter leaves his or her home or office for an interpreting assignment and ending upon the interpreter's return to his or her home or office. The department may not reimburse mileage.

(b) An interpreter shall claim time in quarter hour units.

(c) An interpreter shall be guaranteed payment for a minimum of 2 hours.

(d) The department shall pay the hourly rate for unassigned time of an interpreter scheduled for 2 or more appointments in the same location or city if the interpreter obtained prior department approval for payment and if:

1. The time between appointments is one hour or less;
2. The interpreter has traveled more than 50 miles one way to the appointment location; or
3. The time an interpreter spends waiting for a second appointment to begin is a direct result of the appointment for which the interpreter was originally scheduled.

(e) An interpreter shall wait 30 minutes for a hearing impaired person to arrive at an appointment before the interpreter may leave.

(f) The department shall pay an interpreter for 2 hours if an assignment was cancelled without 24 hours advance notice to the interpreter.

(g) An interpreter shall be paid for a 10 minute break for every hour of continuous interpreting.

(h) When 2 or more interpreters are assigned in rotation to interpret for a day-long event, each interpreter shall be paid for the entire session plus travel time.

(i) With prior department approval, an interpreter traveling 50 miles or more one way to provide interpreter services shall be reimbursed for meal and lodging expenses.

(j) A state employe who is a certified or verified interpreter may, if no other interpreter is available, be reimbursed for assignments completed after normal working hours, while on vacation or during leave without pay. The state employe shall demonstrate that there is no conflict of interest in accepting a reimbursed interpreter assignment by obtaining the prior approval of his or her supervisor.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.08 Billing and collections. **(1)** Services provided under this chapter are subject to the provisions of ch. HFS 1 for ability to pay, billing and collection purposes.

(2) The department shall bill any federal, state, county, municipal or private agency for requested interpreter services reimbursed by the department if the department determines that the agency is required under state or federal law to provide interpreter services to a hearing impaired person or if the agency is not required to provide interpreter services but agrees to pay for the services.

(3) The department shall deposit all monies collected under this section into the appropriation under s. 20.435 (6) (hs), Stats.

(4) If any agency identified under sub. (2) does not pay a bill, the bill shall be referred to the department's bureau of fiscal services for collection.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89; **correction in (1) made under s. 13.93 (2m) (b) 7., Stats.**

HFS 77.09 Registry of interpreters. **(1)** The department shall maintain a registry of certified and verified interpreters. To be included in the registry, an interpreter shall provide documentation of certification or verification to the department. The registry shall include the following information for each interpreter:

- (a) Name;
- (b) Address and telephone number;
- (c) Social security number; and
- (d) Certification or verification level.

Note: Interpreters wishing to be included in the registry should contact the Office for Deaf and Hard of Hearing, P.O. Box 7852, Madison, WI 53707.

(2) The department shall use the registry described under sub. (1) to secure and reimburse interpreters.

(3) The department shall create and maintain a separate registry of certified and verified interpreters for agencies or individuals who do not wish to ask the department to schedule an interpreter or who are not required and do not wish to reimburse the department for those services. The registry shall include the information specified under sub. (1) (a) to (d) for only those interpreters who have consented, in writing, to release that information to agencies or individuals not affiliated with the department. The registry shall be available, upon request, to courts and agencies required under s. 885.37, Stats., to appoint interpreters. The department shall update the registry annually.

(4) The department shall develop and provide to each interpreter whose name is included on the registry under sub. (1) or the registry under sub. (3) a protocol to be followed while the interpreter is providing services under the department's authorization. After providing reasonable notice, the department may exclude an interpreter who fails to adhere to the protocol from the registries under subs. (1) and (3). An interpreter may appeal the department's decision in accordance with s. HFS 77.10.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.

HFS 77.10 Appeals. (1) Any individual providing interpreter services under this chapter or any individual or agency receiving interpreter services under this chapter and dissatisfied with any action or decision of the department may file a grievance in writing or orally with the department. The grievance shall be addressed to the administrator of the department's division of supportive living and shall be received by the administrator within 45 days after the date of the department's action or decision.

Note: To file a grievance, write Administrator, Division of Supportive Living, P.O. Box 7852, Madison, Wisconsin 53707.

(2) In cases in which the department denies a request for inter-

preter services, the agency or individual to whom services have been denied may file a request for a hearing with the department of administration's division of hearings and appeals. The agency or individual shall have 45 days from the date of denial in which to file a request for hearing, which shall be in writing. The date of the filing is the date the office of administrative hearings receives the request for hearing.

Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, Wisconsin 53707.

History: Cr. Register, April, 1989, No. 400, eff. 5-1-89.