

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Americans with Disabilities Act (ADA) of 1990, Title 42 of the United States Code (USC), Sections 12101-12213 ensures equality of opportunity, full participation, independent living and economic self-sufficiency for individuals with disabilities. Title 28, Code of Federal Regulations (CFR), Section 36.303, interprets and makes specific the requirements under the ADA with respect to the auxiliary aids and services that must be provided by public accommodations to disabled individuals to ensure those individuals are not excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services. The professional office of a health care provider is included within the definition of a “public accommodation,” as that term is defined in Title 42, USC, Section 12181(7)(F). Under federal law, Title 28, CFR, Section 36.303 a public accommodation must provide appropriate auxiliary aids and services where necessary, to ensure effective communication with individuals with disabilities, unless the public accommodation can demonstrate that taking those steps would result in an undue burden, such as significant difficulty or expense. The terms auxiliary aids and services are defined to include “qualified interpreters” (Title 42, USC, Section 12102(1)(A)).

Existing State law, Section 54.1(a)(1) and (d) of the Civil Code, specifies that “individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians’ offices . . .,” and states that a violation of the right of any individual under the ADA shall also constitute a violation of Section 54.1.

The Department of Health Care Services (Department) proposes to amend Title 22, California Code of Regulations (CCR) to reimburse Medi-Cal enrolled providers, as specified in Section 51051, for the cost of sign language interpreter services used during the provision of medically necessary health care services that are provided in accordance with State Plan requirements and federal guidelines.

This regulatory action proposes to:

- 1) Amend Section 51098.5 to define sign language interpreter services as those services provided by a certified or non-certified interpreter who meets the specified standards set forth in Section 51202.5, during the provision of medically necessary health care services provided by a Medi-Cal enrolled provider, such as those specified in Section 51051. These interpreter services can occur directly between a Medi-Cal beneficiary and a Medi-Cal enrolled provider; an adult representative of the Medi-Cal beneficiary and a Medi-Cal enrolled provider; or an adult who receives services or training on behalf of the Medi-Cal beneficiary and the Medi-Cal enrolled provider.

- 2) Amend Section 51202.5 to specify that in the circumstance where a Medi-Cal enrolled provider has determined that the interpreter selected by the beneficiary does not communicate effectively and the result may be an adverse effect for the beneficiary, the provider is required to select an alternate interpreter. The Medi-Cal enrolled provider must maintain a written statement of reasons for this action in the beneficiary's medical record, to be available pursuant to Section 51476(g).
- 3) Amend Section 51309.5 to expand the scope of the health care and related services for which Medi-Cal will reimburse enrolled providers for utilizing sign language interpreter services. These expanded services include the following:
 - a) Providing instructions regarding all medication,
 - b) Explaining instructions for self-care and/or for therapy activities, upon discharge from a health care facility to an unsupervised home setting, and
 - c) Obtaining or providing case management information.
- 4) Amend Section 51503.3 to include reimbursement for sign language interpreter services for Medi-Cal enrolled providers that employ fewer than fifteen employees.