
Labor & Workforce Development Committee

HB 2711

Brief Description: Narrowing the definition of language access providers.

Sponsors: Representatives Pettigrew, Takko and Eddy; by request of Office of Financial Management.

Brief Summary of Bill

- Excludes interpreters in legal proceedings and the Medicaid Administrative Match program from the Public Employees' Collective Bargaining Act.

Hearing Date: 1/30/12

Staff: Alexa Silver (786-7190).

Background:

Interpreters in the Medicaid Administrative Match Program.

The Medicaid Administrative Match (MAM) program provides matching federal funds to local health jurisdictions, public hospitals, schools, and tribes that provide outreach to Medicaid recipients. The federal government provides matching funds to the local entity through the Department of Social and Health Services (DSHS), the designated state Medicaid agency. The program covers costs for indirect medical services, including interpreter services. Public hospitals and local health jurisdictions may have interpreters on staff or may contract with language access agencies for interpreter services.

Interpreters in Legal Proceedings.

When an interpreter is appointed to assist in a legal proceeding, the entity that appointed the interpreter, whether it is a court, state agency, or other governmental entity, must appoint a certified or qualified interpreter to assist. Interpreters are entitled to a reasonable fee. The cost of providing an interpreter in legal proceedings is borne by the governmental entity that initiated

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the proceedings if the non-English-speaking person is a party or is compelled to appear. Subject to the availability of appropriated funds, the Administrative Office of the Courts must reimburse the governmental entity for up to half the cost of providing an interpreter under certain circumstances.

The DSHS Division of Children and Family Services, with the assistance of the Attorney General's Office, initiates dependency proceedings. The DSHS is required to provide interpreters at these proceedings. Depending on the county, interpreters in dependency proceedings may be paid by the DSHS, the Attorney General's Office, or the court.

The DSHS is separately required to provide interpreters for non-English-speaking applicants and recipients. The agency certifies, authorizes, and qualifies language access providers to maintain an adequate pool. "Language access providers" are defined as independent contractors who provide spoken language interpreter services for DSHS appointments or Medicaid enrollee appointments, but not owners, managers, or employees of brokers or language access agencies.

Public Employee Collective Bargaining.

Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission (PERC). Individual providers (home care workers), family child care providers, adult family home providers, and certain language access providers also have collective bargaining rights under the PECBA. The employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining (grievance procedures and personnel matters, including wages, hours, and working conditions).

In 2010, ESSB 6726 granted collective bargaining rights under the PECBA to language access providers. "Language access providers" are defined as independent contractors who provide spoken language interpreter services for DSHS appointments or Medicaid enrollee appointments, but not owners, managers, or employees of brokers or language access agencies. Mandatory subjects of bargaining are limited to: (1) economic compensation, such as the manner and rate of payments; (2) professional development and training; (3) labor-management committees; and (4) grievance procedures. Retirement benefits are not subject to collective bargaining.

Following the enactment of ESSB 6726, a dispute arose regarding the eligibility of two categories of interpreters who provide interpreter services for programs at the DSHS: interpreters in the MAM program and interpreters who work in legal settings. The PERC issued a decision in November 2011, that determined that the statewide unit of language access providers under the PECBA includes interpreters who work in the MAM program, as well as those who work in legal settings.

Summary of Bill:

For purposes of both the collective bargaining rights of language access providers and the requirement that the DSHS provide and certify language access providers, "language access provider" does not include an interpreter appointed or required in legal proceedings or an interpreter under the MAM program. "DSHS appointments" does not include legal proceedings of any nature, including criminal, civil, or administrative proceedings. "Medicaid enrollee

appointments" does not include MAM appointments or any other service provided pursuant to the MAM program.

These changes apply prospectively and retroactively.

Appropriation: None.

Fiscal Note: Requested on January 27, 20120.

Effective Date: The bill contains an emergency clause and takes effect immediately.