



U.S. Department of Health
and Human Services

OFFICE FOR CIVIL RIGHTS

Civil Rights & Language
Access Planning

Know Your Responsibilities



Office for Civil Rights (OCR) U.S. Department of Health and Human Services (HHS)

Who We Are and What We Do

OCR . . .

- is the Department's civil rights, conscience and religious freedom, and health privacy rights law enforcement agency
- Provides technical assistance and public education
- Fact-finding agency that receives and investigates complaints from the public alleging discrimination
- Requires violating entities to take corrective actions
- May begin process for terminating receipt of federal financial assistance



Who Must Comply?

All recipients of HHS Federal financial assistance (FFA), either directly or indirectly, through a grant, contract or subcontract.

What is FFA?

CHIP, Medicaid, and Medicare (Parts A, C, and D) recipients.

Human or social services agencies

Health Insurance carriers participating in marketplace exchanges.



Principles for Communicating with LEP Individuals

- A covered entity must take reasonable steps to provide meaningful access to each LEP individual eligible to be served or likely to be encountered in its health programs and activities. Reasonable steps may include the provision of language assistance services, such as oral language assistance or written translations.
- A covered entity is expected to offer a qualified interpreter when oral interpretation is a reasonable step to provide an individual with meaningful access.
- Where language services are required, they should be provided free of charge and in a timely manner.



Principles for Communicating with LEP Individuals (Cont'd.)

- A covered entity must adhere to certain quality standards in delivering language assistance services.
- For instance, a covered entity may not:
 - Require an individual to provide his or her own interpreter
 - Rely on a minor child to interpret, except in a life threatening emergency where there is no qualified interpreter immediately available
 - Rely on interpreters that the individual prefers when there are competency, confidentiality or other concerns
 - Rely on unqualified bilingual or multilingual staff
 - Use low-quality video remote interpreting services



6

Language Assistance Services vs Language Access Plans



Example of a Language Access Plan

- Regular assessments of language needs
- Correct identification of LEP persons
- Policies and procedures
- Notice of language assistance services
- Staff training
- Ongoing monitoring of the language assistance services provided



Options for Providing Language Assistance Services

- Bilingual staff
- Staff interpreters
- Contractors
- Telephone lines and video teleconferencing
- Community volunteers



Selecting Language Assistance Services

There are two major considerations to be addressed in selecting services:

- Competency
 - Timeliness
- Note: Recipients have flexibility in determining the appropriate mix of language assistance services provided, but must ensure the quality and accuracy of such services.



Interpreter Competency

The recipient should take reasonable steps to assess that the interpreter is able to:

- Demonstrate proficiency in both English and in the other language
- Demonstrate knowledge of specialized terms or concepts
- Demonstrate an understanding of the need for confidentiality and impartiality
- Understand the role of interpreter



Timeliness

- When language assistance is needed, it should be provided at a time and place that avoids the effective denial or delay of the service, or benefit.



Use of Family Members or Companions as Interpreters

- An adult family member or companion may be used:
 - In an emergency involving an imminent threat to safety or welfare where there is no qualified interpreter immediately available; or
 - Where the LEP individual specifically requests that the family member or companion interpret, the person agrees, and reliance on the family member or companion is appropriate under the circumstances.



Risk of Using Family Members or Friends as Interpreters

- Family and friends may:
 - Not be proficient in complex terminology
 - Fail to possess the necessary skills and ethical training to interpret
 - Not be emotionally able to handle sensitive personal information being conveyed (especially children)
 - Un/intentionally omit or alter critical information (circumstances involving domestic violence)

Looking Ahead to Session 3

- Effective communication for Individuals with disabilities



15

Resources Are Available

- DOJ Language Access Assessment and Planning Tool http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf
- Federal Interagency Working Group on LEP <http://www.lep.gov>
- HHS Office for Civil Rights for information, cases and tools <http://www.hhs.gov/ocr/>
- LEP rights brochure http://www.lep.gov/resources/lep_aug2005.pdf
- Top tips from responses to 2006 language access survey of federal agencies http://www.lep.gov/resources/2008_Conference_Materials/TopTips.pdf
- 2006 Language Access Survey http://www.lep.gov/resources/2008_Conference_Materials/FedLangAccessSurvey.pdf
- I Speak Language Identification flashcards <http://www.lep.gov/ISpeakCards2004.pdf>
- GSA Language Services Schedule <https://www.gsa.gov/portal/content/245623>
- Attorney General's Memorandum http://www.justice.gov/crt/about/crt/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf
- Executive Order 13166 <https://www.justice.gov/crt/executive-order-13166>
- DOJ LEP Guidance https://www.lep.gov/guidance/guidance_DOJ_Guidance.html



Resources

- <http://www.hhs.gov/ocr>
- For assistance from OCR in other languages, please visit: <https://www.hhs.gov/ocr/get-help-in-other-languages/index.html>
- Business Associate Agreement Information: <https://www.hhs.gov/hipaa/for-professionals/covered-entities/sample-business-associate-agreement-provisions/index.html>
- Join us on Twitter @hhsocr



Contact Information

OCR/HHS, Rocky Mountain Region

1961 Stout Street

Denver, Colorado 80294

Voice: (303) 844-7915

TDD: (303) 844-3439

Fax: (303) 844-2025

Website: www.hhs.gov/ocr

Questions?

U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES

OFFICE FOR CIVIL RIGHTS