

Department of Industrial Accidents

Language Access Plan

I. Introduction

The Department of Industrial Accidents (DIA) has prepared this Language Access Plan (“LAP” or “Plan”), which defines the actions to be taken by Agency to ensure meaningful access to agency services, programs and activities on the part of persons who have limited English proficiency. The DIA will review and update, on a biannual basis, this LAP in order to ensure continued responsiveness to community needs and compliance with the Executive Office for Administration and Finance (“ANF”) Administrative Bulletin #16.

II. Purpose

The purpose of this plan is to ensure clients of the DIA meaningful access to services, programs and activities although they may be limited in their English language proficiency.

The DIA is committed to this Language Access Plan as the appropriate response to meeting our clients’ needs. The Plan is consistent with the requirements of Administrative Bulletin #16 as promulgated by the Executive Office of Administration and Finance.

Consistent with the guidance of ANF Administrative Bulletin #16, a Limited English Proficient (“LEP”) person is someone who is not able to speak, read, write or understand the English language at a level that allows him/her to interact effectively with DIA staff. A client maintains the right to self-identify as a LEP person.

III. Agency Description

The DIA should use this section to describe the Agency, its mission, services, programs and activities as fully but as succinctly as possible.

Mission and Functions Statements

Primary Mission / Functions

Pursuant to M.G.L. Chapter 152, the Mission of the Department of Industrial Accidents is to administer the Commonwealth's workers' compensation system and provide prompt and fair compensation to victims of occupational injuries and illness, and to see that medical treatment to injured workers is provided in a timely manner while balancing the needs of employers to contain workers' compensation insurance costs.

- To provide dispute resolution of workers' compensation cases through due process and adjudication.
- To administer the Special, Private, and Public Trust Funds.

IV. Language Access Plan:

Approach: The Agency Language Access Plan shall be fully implemented subject to the availability of fiscal resources to implement said language access plan. This Language Access Plan has been developed to adhere to the Language Access Guidelines of ANF Administrative Bulletin #16. This plan represents the DIA's administrative blueprint to provide meaningful access to agency services, programs and activities on the part of LEP individuals. This LAP outlines the tasks DIA will undertake to meet this objective.

Language Access Plan:

(1) DIA Language Access Coordinator:

William S. Taupier, Jr., Deputy Director of Administration
1 Congress Street, Suite 100
Boston, MA 02114-2017
617-727-4900 ext. 560
billt@dia.state.ma.us

(2) DIA Language Access Needs Assessment:

- a. Based on the services, programs and activities listed above prioritize and describe the steps the agency will take to ensure such services, programs and activities provide meaningful access to the populations whose language meet or exceed the 5% threshold. For agencies that have regional offices, this process should be described for each region.
- b. Language Makeup of Client Population – Based on 2000 U.S. Census Bureau data, 18.7% (1,115,570) of persons over the age of 5 years residing in Massachusetts speak a language other than English at home. According to the same data 7.7% or 459,073, spoke English “less than very well.” Rather than extrapolate the working age population¹, the DIA will assume, for purposes of its Language Access Plan, that a similar percentage of the workforce has LEP and therefore the agency's client population would be approximately the same. The language breakdown (per 2000 U.S. Census data) is as follows (*Note – According to the most recent data from the Executive Office of Labor and Workforce Development, the total workforce in MA is 3,475,400*):

MA Residents who speak a language other than English	1,115,570	18.7%
Spanish or Spanish Creole	370,011	6.2%
Portuguese or Portuguese Creole	159,809	2.7%
French (incl. Patois, Cajun)	84,484	1.4%
Chinese	71,412	1.2%
Italian	59,811	1.0%
French Creole	43,519	0.7%
Russian	32,580	0.5%
Vietnamese	30,400	0.5%
Greek	28,819	0.5%
Polish	27,631	0.5%
Mon-Khmer, Cambodian	21,549	0.4%
German	20,029	0.3%
Arabic	18,742	0.3%

Massachusetts LEP populations as a Percentage of Total State Populations		
Population	Number	Percentage (out of total MA population)
Population 18 years and over	4,853,130	100.00%
Speak only English	3,944,715	81.28%
Speak a language other than English	908,415	18.72%
Total MA LEP Population (people who speak English "Not Well" or "Not at All")	193,785	3.99%
Spanish or Spanish Creole	71,895	1.48%
French Creole	6,810	0.14%
Italian	6,525	0.13%
Portuguese or Portuguese Creole	39,620	0.82%
Russian	8,990	0.19%
Chinese	18,050	0.37%
Mon-Khmer, Cambodian	5,125	0.11%
Vietnamese	8,990	0.19%

The 2000 U.S. Census data shows that, of the major language groups in Massachusetts where measured percentages indicated they spoke English "Not Well" or "Not at All", the DIA has informational materials available in all but three – Italian, Russian and Mon-Khmer. In order to address this, the DIA will pursue adding materials in these languages to its inventory as a result. Said materials will be available by the second quarter of 2011.

While Russian and Italian speakers represent a higher percentage statewide, further study of the Lowell Area revealed a significant population of Cambodian-Americans. The same 2000 U.S. Census data report shows that 10.37% of Lowell's population is Cambodian – the highest percentage in the United States. While the statewide percentage of Khmer speakers is 0.4%, the demographic data from the Lowell area indicates a need for this agency to expand the catalogue of available foreign language documents to include Khmer.

c. Points of Contact between DIA and Client Population:

DIA Regional Offices –

Boston

1 Congress St., Suite 100

Boston, MA 02114-2017

Tel. 617-727-4900

[Foreign language speaking staff: 6 Spanish, 3 Cantonese, 2 Portuguese, 1 Russian, 2 Cape Verdean, 1 Hebrew]

Revised – January 18, 2011

Fall River
1 Father DeValles Blvd.
Fall River, MA 02723
Tel. 508-676-3406
[Foreign language speaking staff: 1 Portuguese]

Lawrence
354 Merrimack Street, Bld. 1, Suite 230
Lawrence, MA 01843
Tel. 978-683-6420
[Foreign language speaking staff: 2 Spanish, 1 French, 1 Yiddish]

Springfield
436 Dwight Street, Room 105
Springfield, MA 01103
Tel. 413-784-1133
[Foreign language speaking staff: 1 Spanish, 1 French]

Worcester
340 Main Street
Worcester, MA 01609
Tel. 508-753-2072
[Foreign language speaking staff: 1 Spanish]

Web site: www.mass.gov/dia

(3) Language Resources Assessment:

- a. Identification of existing staff who are linguistically, culturally, and technically able to deliver services in a language other than English and/or to serve as interpreters (Actual staff need not be identified; languages spoken should be)

DIA employs staff members who speak the following languages:

Spanish
Portuguese
Haitian
Cape Verdean
Chinese (Cantonese)
Russian
French
Hebrew
Caribbean Patois
Yiddish

- b. Community-based resources available to be deployed to assist agency in meeting language access needs. A number of community organizations have been contacted in an effort to establish coordination and lines of communication. At the time this

document was prepared, none of the 14 agencies contacted had responded. Those efforts will continue and be redoubled in order to achieve this goal by the end of the first quarter 2011.

(4) Language Service Protocols:

- a. Which language services are required to implement the Language Access Plan (In this section, the Agency shall indicate the specific types of resources – in-person interpretation, phone interpretation, community-based resources, etc., that are available to provide language access and how the resources will be deployed to meet language access needs)
 - The DIA's LAP calls on agency staff with specific language skills to provide information to clients with LEP. These staff persons have been identified and will be trained to respond to questions a client may have regarding workers' compensation, the legal process at DIA and the rights of the injured worker and the rights and obligations of the employer. Our goal is to complete the training by the end of the first quarter of 2011;
 - The DIA currently employs Qwest Language Services for telephonic interpretation where no trained DIA staff person speaks the language of the caller or there is no one readily available to take the call;
 - Through outreach, the DIA has contacted community based organizations for the specific language speaking groups. We have placed in their possession copies of our informational guides that spell out the rights and obligations of injured workers and employers. We have requested that they distribute these materials freely among their community when needed. As stated above, as of this date no formal dialogue has begun.

- b. Define and describe Agency's language access protocols for providing interpretation services;
 - As stated above, employs Qwest Language Services for telephonic interpretation where no trained DIA staff person speaks the language of the caller or there is no one readily available to take the call;
 - The agency provides informational guides for injured workers and employers in Chinese, Cape Verdean, Haitian Creole, Portuguese, Spanish and Vietnamese. These guides are available at all DIA offices and on the DIA web site [www.mass.gov/dia]. Further, the agency web site has been recently updated to include pages with basic information in those languages with links directly to the informational guides. We will be adding Khmer guides by the end of the second quarter of 2011;
 - In terms of litigation before the DIA, it is the responsibility of the moving party (those who filed the initial suit) to provide translators to persons with limited English proficiency during the course of litigation. As the court, the DIA cannot provide said services as it would give the appearance of favoring one party over the other;

- The DIA website will be updated in early to mid-November to include links to information in the languages mentioned above. The Khmer guides and information will be added in mid 2011;
 - SWO Appeal Hearings – Where a LEP employer has appealed a Stop Work Order (SWO) per G.L. c. 152, §25C, the agency shall furnish an interpreter either in person or via telephonic interpretive services via Qwest Language Services. In the event the proper interpretation services cannot be rendered, the hearing shall be adjourned to a later date when said services will be available. In addition, all action on the SWO shall be suspended including the accrual of fines until such time as the hearing can be perfected.
 - OEVR Mandatory Meetings, etc. – For claimants referred to the Office of Education and Vocational Rehabilitation, and who are LEP, there is a general need for interpretive services. By way of surveying the Rehabilitation Review Officers (RROs), we learned that an LEP client is a relatively frequent occurrence. In those meetings, the client usually brings a relative to assist. Wherever possible, the DIA will utilize staff persons to assist an LEP client in a face-to-face meeting with an RRO. In the absence of a staff member able to interpret, RROs are to employ the Qwest Language Link service to interpret. Please note, placement of an LEP client into a job or vocational training program is nearly impossible as the language barrier is too much of a hindrance. It is the regular practice of the RROs to refer such clients to a free or low-cost English as a Second Language program in their immediate area. The client is then provided with information as to when they can apply for VR services upon completion of such a program.
- c. Define how a client will be able to access and utilize the resources identified in paragraphs (a) and (b): LEP customers who contact the DIA via telephone will be offered telephonic interpretation whenever necessary. Website language tools will be implemented shortly. Persons who have LEP who appear at any DIA office will be assisted by a staff member who speaks their language whenever possible. If necessary, the staff will also employ Qwest Language Services on such occasions to ensure clear and meaningful information is provided to the customer.

(5) Vital Document Translation:

- a. Agency to identify, by list, the name of vital documents, in whole or in part, to translate including timeframe for translation
 - Massachusetts Workers' Compensation Guide for Injured Workers
 - i. Currently available in Chinese, Cape Verdean, Haitian Creole, Portuguese, Spanish and Vietnamese.
 - ii. DIA is planning to have this guide available in Khmer by the end the second quarter of 2011.
 - Employers' Guide to the Massachusetts Workers' Compensation System
 - i. Currently available in Chinese, Cape Verdean, Haitian Creole, Portuguese, Spanish and Vietnamese.

- ii. DIA is planning to have this guide available in Khmer by the end the second quarter of 2011.
- DIA Forms
 - i. None currently available in other languages

Note: In practical application, the translation of these forms serves little purpose as they must be processed by the DIA and the data entered into our Case Management System database. The staff on the DIA's Claims Administration Unit is not multi-lingual and would not be able to translate documents in most of the languages listed above. This would require those forms be sent out to a third party (a certified document translation vendor from the statewide contract) for translation. The English version would then have to be returned to the DIA for data entry – only then could the legal process commence. This would cause delays in scheduling legal proceedings, and so it would not serve the best interests of the claimant. Further, it is the policy of the DIA that all persons who are in need of our assistance (*vis-à-vis* have filed or need to file a claim with the agency) are best served by obtaining competent legal counsel to defend their rights. Said position is clearly delineate in our guide for injured workers which has been translated.

- b. Agency website content, by list, to translate including timeframe for translation
 - Basic informational page for injured workers
 - i. To be available in Cape Verdean, Haitian Creole, Portuguese, Spanish and Vietnamese by January 2011. Chinese and other languages to be available by the end of the second quarter of 2011.
 - Basic informational page for Employers
 - i. To be available in Cape Verdean, Haitian Creole, Portuguese, Spanish and Vietnamese by January 2011. Chinese and other languages to be available by the end of the second quarter of 2011

(6) Stakeholder Consultations:

The DIA has contacted community based organizations for the specific language speaking groups. We have placed in their possession copies of our informational guides that spell out the rights and obligations of injured workers and employers. We have requested that they distribute these materials freely among their community when needed. As stated above, as of this date no formal dialogue has begun. The topic of LEP claimants and/or employers will be discussed with the Massachusetts Bar Association's Workers' Compensation Committee at a future meeting.

(7) Staff Training:

Of the tools available to the DIA, the Qwest Language Services (Qwest) is the optimal means of one-on-one interpretation for LEP clients. The agency will conduct training in the use of Qwest during the last quarter of 2010 and into the first quarter of 2011.

In addition, additional customer service training will be provided to the foreign language speaking staff of the DIA. The topics will include general customer service but will concentrate on the DIA process and workers' compensation issues so that LEP callers or visitors will receive up-to-date and accurate information regarding their rights.

(8) Notice to Public.

This public notice will be made via Circular Letter, the agency website, through each regional office and through members of the Bar and the insurer communities. At this time there are no plans for any advertising campaigns.

(9) Agency Monitoring:

The DIA will implement a log system that will track the occasions when LEP clientele have requested assistance from the agency (including all telephone and in-person contact). The log system will include, date, time, name of client, language spoken and whether communication resolved the issue. These logs will be forwarded to the LAP Coordinator for review and protocol adjustment if necessary.

(10) Complaints:

Complaints regarding LEP services and implementation of the LAP will be directed to the LAP Coordinator. Issues will be resolved directly with the client and the related unit's manager to ensure a satisfactory result. Issues that cannot be resolved by the LAP Coordinator will be escalated to the Sr. Management level for further review and resolution. Please note that disputes that are properly decided by an Administrative Judge will be left to that person to resolve as DIA managers and/or staff cannot intervene on behalf of any party where such issues is under the jurisdiction of that judge.

Agency Head

Paul Buckley

Paul V. Buckley

Date

January 18, 2011

Commissioner

Secretary

Jane F. Goldstein

Date

1/19/2011

Revised – January 18, 2011

Language Access Complaint Procedure

(To be included as an attachment to LAP)

You may file a complaint with the DIA Language Access Coordinator or the Office of Access and Opportunity if you believe you have been denied the benefits of this Plan. You must file your complaint within 6 months of the alleged denial. You must file a written complaint. To file a complaint with the Language Access Coordinator, submit the written complaint to:

William S. Taupier, Jr., Deputy Director of Administration
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017
617-727-4900 ext. 560
Email Address: billt@dia.state.ma.us

To file a complaint with the Office of Access and Opportunity, please submit the written complaint to the attention of:

Office of Access and Opportunity
Executive Office of Administration and Finance
State House, Room 373
Boston, MA 02133
Email Address: Ronald.Marlow@state.ma.us