

April 18, 2016

Executive Office of Health and Human Services
Office of Medicaid
1 Ashburton Place, 11th Floor
Boston, MA 02108

Re: Comments on Draft Language Access Plan

Thank you for the opportunity to comment on the Office of Medicaid Language Access Plan (LAP). It is our hope that you will find these comments helpful in assisting the Office of Medicaid to provide meaningful access to its services to state residents who are limited English proficient (LEP). We look forward to working with you further on this important issue particularly addressing the current limitations of the HIX system to issue notices in languages other than English in light of the imminent resumption of redeterminations through that system. We encourage the Office of Medicaid to draw on the expertise of the enrollment assisters to further inform the agency on the needs of new language groups in the Commonwealth.

We also hope to work with you further with respect to language access to the medical services purchased by the agency for the benefit of LEP MassHealth members, a topic we also addressed in our December 23, 2015 comments on the Delivery System Reform Initiative. According to the Institute of Medicaid, language barriers may affect the delivery of adequate care through poor exchange of information, misunderstanding of physician instruction and poor shared decision-making. Linguistic difficulties may also result in decreased adherence with medication regimes, poor appointment attendance, and decreased satisfaction with services.¹

Applicable law and policy

State law and policy

A series of Executive Orders directed state agencies to develop plans to eliminate discrimination. See, EO 478 (Jan. 30, 2007) superseded by EO 526 (Feb. 7, 2011). Pursuant to this direction, the Executive Office of Administration and Finance issued Administrative Bulletin 16 in 2010 providing guidelines for state agency to develop separate language access plans to eliminate discrimination based on national origin for LEP individuals. More recently, the Baker Administration updated these Guidelines. See Language Access Policies and Implementation Guidelines, March 20, 2015 (hereafter referred to as state guidelines). MassHealth developed a draft plan in 2011 but never completed it.

¹ Institute of Medicine, Unequal Treatment: Confronting Racial and Ethnic Disparities in Health at 17 (2002).

The state guidelines provide minimum criteria for language access for state agencies regardless of the receipt of federal funds. However, the state guidelines recognize that state agencies that receive federal funds are also subject to the requirements of Title VI of the Civil Rights Act of 1964, federal Executive Order 13166 and associated federal Title VI regulations and guidance.²

Federal law and policy

The Office of Medicaid receives billions of dollars in federal funds through the Medicaid program and is subject to the Title VI statute, regulations and Executive Order. It is also subject to the US Department of Health and Human Services Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47311 (Aug. 8, 2003) (hereafter federal guidance).

More recently, § 1557 of the Affordable Care Act, 42 USC § 18116 prohibits discrimination by federal assistance recipients in any health program or activity including contracts of insurance and programs operated by exchanges. It cross-references to various civil rights laws including Title VI. Proposed regulations implementing § 1557 address language access requirements in more detail. Proposed 45 CFR Part 92.201, 80 Fed Reg. 54172, 54218-9 (Sept. 8, 2015). Finally, the Medicaid statute and regulations, and the State Medicaid Manual impose additional requirements on state Medicaid agencies and subrecipients such as Medicaid managed care plans with respect to language access. See, 42 CFR 438.10(c).

In these comments we will address the contents of the draft state plan with reference to both state and federal policy, the experience of our LEP clients, and comments from Massachusetts Advocates for Children (MAC), Health Care for the Homeless, Health Care for All, and the League of Community Health Centers based on the experiences of their clients and patients, and, in the case of MAC, their additional legal research.

The four factor analysis

Federal guidance directs federal recipients to apply a four factor analysis to determine what steps recipients should reasonably take to provide meaningful access to LEP individuals. The four factors are:

- The number or proportion of LEP persons eligible to be served or encountered by the program
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program or service to people's lives
- Resources available to the recipient and costs

² “An agency may and should go beyond these Guidelines as needs and circumstances dictate (and, in many instances where the Agency is a recipient of federal financial assistance, it may have to go beyond these Guidelines).” State Guidelines, p. 2.

Factor one: the number of LEP persons eligible to be served

Draft Plan: Agency Language Access Needs Assessment

The draft plan includes a language access needs assessment based only on language data collected on the initial application for members enrolled in September 2015. Based on this data, approximately 12.5% of MassHealth members, 208,900 individuals, prefer a language other than English. Individuals who prefer Spanish make up over 7% of applicants with the next largest language group being Portuguese (2%) and Chinese (1%). Seven additional languages were preferred by 1,000 or more members (in descending order): Vietnamese, Haitian-Creole, Cape Verdean (Portuguese Creole), Arabic, Russian, Cambodian/Khmer, and Creole French.

While a useful starting point, both the state and federal guidance also require data to assess the language needs of individuals who are eligible to be served but not enrolled. This information is important to determine if certain groups may be underrepresented among those served by the agency due to language barriers. See, federal guidance at 47314; state guidelines p. 4.

The current application form asks individuals to identify a preferred language other than English. When the field, which is optional, is left blank, it defaults to English. Thus, there is no way to measure the non-response rate, and to know how reliably this field captures the language needs of applicants. Wording the question differently could capture better information.³ Despite this limitation, more could also be gleaned from this field if the agency looked at the preferred language of all applicants not just those who subsequently enroll. It may be language barriers that inhibit enrollment. In addition, it would be useful for the agency to assess the number of calls that require use of telephonic or other interpreter services and which languages are most commonly requested.

There are several good sources of additional data on potentially eligible LEP individuals. See, Federal guidance, p. 47314 and state guidelines p. 6. The American Community Survey conducted annually by the US Census Bureau includes information on LEP individuals state-wide and by smaller geographic units. It also provides income information that could enable the Office of Medicaid to better estimate the population likely eligible for its services. The OCCIO recently compiled a list of the top 15 languages spoken by LEP individuals by state based on ACS data for use by Exchanges.⁴ It identified over 494,000 LEP individuals in Massachusetts.⁵ See Table below for comparison with MassHealth lists. Other useful sources of data include hospital reports to DPH of requests for interpreters, reports of the language of individuals enrolled in classes as English Language Learners, and school data.

³ DPH recommends that hospitals requesting language information use this format: What language do you prefer to speak with us about health? English Spanish Portuguese Cape Verdean Creole Haitian Creole Khmer Vietnamese Somali Arabic Albanian Chinese (specify dialect _____) Russian Other (specify _____) What language do you prefer to read health-related materials? _____
<http://www.mass.gov/eohhs/docs/dph/health-equity/race-ethnicity-language-data.pdf>

⁴ Technical Guidance, (March 30, 2016) <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Language-access-guidance.pdf>

⁵ Appendix A (March 30, 2016) <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Appendix-A-Top-15.pdf> (The list shows the top 15 languages among LEP individuals, see footnote 4 above for an explanation of the methodology used to compile the lists).

See, DPH, Foreign Language Toolkit (2010) <http://www.mass.gov/eohhs/docs/dph/health-equity/appendix-f-language-audience-guides.pdf>.

In addition, the Office of Medicaid has available to it the experience of 1600 CACs and Navigators from whom it can obtain more recent information on newly arrived immigrant groups and language needs and barriers facing LEP individuals. We strongly urge the Office of Medicaid to tap into the experience of the CACs and Navigators. We also urge MassHealth to obtain an analysis of ACS data for LEP individuals⁶ under 100%, 200% and 300% of the federal poverty level in order to better inform its language plan.

However, even without this information, for purposes of the four factor analysis, it is clear that the Office of Medicaid has a large number of LEP individuals within its eligible service population.

15 Top Non-English Languages in MA among LEP-ACS (descending order)	h-Centive Non-English Languages with over 1,000 speakers (descending order)	MA21 Non-English Languages with over 1,000 speakers (descending order)	Aggregate h-Centive + MA21 Non-English Languages with over 1,000 speakers (descending order)
Spanish	Spanish	Spanish	Spanish
Portuguese	Portuguese	Portuguese	Portuguese
Chinese	Chinese	Chinese	Chinese
Haitian Creole	Vietnamese	Haitian Creole	Vietnamese
Vietnamese	Haitian Creole	Vietnamese	Haitian Creole
Russian	Cape Verdean Creole	Cape Verdean Creole	Cape Verdean Creole
Arabic	Arabic	Arabic	Arabic
Khmer/Cambodian		Russian	Russian
French		Khmer/Cambodian	Khmer/Cambodian
Italian		French	French
Korean		Creole French	Creole French
Greek			
Polish			
Hindi			
Guajarati			

⁶ Those who speak English “less than very well.”. State guidelines p. 6.

Factor two: the frequency of contact with the program

Draft plan: Points of Contact between Agency and Client Population

This factor is not directly addressed by the draft Plan. However, the agency has available to it a record of call volume to its Customer Service line, the volume of applications and other documents it receives from applicants and members, and the volume of notices it issues. Assuming LEP individuals have communication needs at least equivalent to that of English speakers, the frequency of contact with LEP individuals is significant.

The draft plan identified points of contact with LEP individuals. However, there are additional points of contact that should be added to the list including:

- The premium assistance unit
- The third party liability unit
- The program integrity unit
- The Bureau of Special Investigations (with respect to MassHealth claims)
- The disability determination unit at U.Mass. Medical School
- Subrecipients including
 - MassHealth Managed Care Organizations
 - The Massachusetts Behavioral Health Partnership
 - MassHealth participating providers
 - Regional transportation authorities (nonemergency transportation)
- The Health Insurance Connector
 - Mahealthconnector.org (online application for MassHealth)
 - Customer Service
 - Connector walk-in centers in Boston, Worcester and Springfield

The units with less frequent contact with recipients may also be those least likely to be aware of the agency's LEP obligations or the resources available to them to communicate with LEP individuals. For example, an employee of a group that works with parents of disabled children referred a Vietnamese-speaking parent to the premium assistance unit to explain a problem regarding her premium assistance payment and assured her MassHealth would provide a Vietnamese interpreter. The parent called back saying the PA unit had referred her back to the parent organization for an interpreter. A legal services program represented an LEP client who was interviewed by a BIA employee about a possible MassHealth overpayment related to her children's father. The BIA employee never offered an interpreter at no cost to her, but instead used the father's relative who accompanied her to the interview, and through the father's relative, obtained the client's signature to a repayment agreement in English.

Factor three: the nature and importance of the program or service to people's lives.

The Office of Medicaid administers the MassHealth and Health Safety Net program affecting access to health care services for over 1.8 million state residents. Access to health care is of great importance, indeed, it can be a matter of life or death.

Factor four: the resources available to the recipient of federal funds and costs.

The Office of Medicaid administers a budget of over \$15 billion. The Draft plan states that it shall be fully implemented “subject to the availability of fiscal resources to implement said language access plan.” Federal guidance notes that “[l]arge entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance.” P. 47315. To the extent cost may affect the agency’s compliance with its plan, the plan should identify the shortcoming and include a blueprint of how the agency will come into compliance over time. State guidelines p. 7.

Identifying LEP Individuals Who Need Language Assistance

In-Person. MassHealth has four regional MassHealth Enrollment Centers that receive walk-in clients. In addition, the Connector, which shares a common eligibility and enrollment system with MassHealth, has three walk-in centers. The draft plan indicates that interpreters are available on request at walk-in locations through the telephone language line. However, it does not indicate how individuals are notified of the right to a free interpreter at the walk-in centers or how they may indicate their preferred language. The plan needs to include a description of the process by which to provide notice of the services that are available to LEP person it serves, and the extent of services. Federal guidance p. 47320.

There should be signage and brochures in multiple languages informing people of their right to a free interpreter. Attached is a copy of a brochure that DTA has developed for this purpose called Your Rights to an Interpreter that is available in eight languages. Further, when to offer an interpreter should be an important part of the plan’s protocol and of staff training. The proposed § 1557 regulations indicate the kind of information that should be in the plan’s protocol. It provides:

A covered entity shall not:

- (1) Require an individual with limited English proficiency to provide his or her own interpreter;
- (2) Rely on an adult accompanying an individual with limited English proficiency to interpret or facilitate communication, except:
 - (i) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter immediately available; or
 - (ii) Where the individual with limited English proficiency specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances; or
- (3) Rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter immediately available.⁷

⁷ proposed 45 CFR § 92.201(e)

We recommend that the Plan also require “I Speak” posters and cards to be prominently displayed in all of its walk-in centers. These posters and cards are described in the federal guidance p. 47320. The DPH which is responsible for enforcing the Emergency Room Interpreter Law, has also developed similar posters and cards for use in hospitals. <http://www.mass.gov/eohhs/docs/dph/health-equity/translation-vert.pdf>

The draft Plan states that pursuant to its collective bargaining agreement no non-English languages are officially supported by the staff at the regional or central offices. We know there are bilingual workers employed at the MEC and that they can and do communicate with LEP individuals in languages other than English. It is unclear how Spanish language application forms could be processed if there were no bilingual workers at the MEC. In the Agency Monitoring section of the plan, it states that LEP data is used to guide hiring decisions in reference to bilingual staffing needs. We understand that there may be a variety of labor management issues involved in the use and compensation of bilingual workers: For example, addressing how bilingual workers are identified and their fluency assessed, when a bilingual worker may or may not be called upon to interpret for another worker, or when a bilingual worker may or may not be asked to translate a document, as well as when an LEP individual will be referred to a bilingual worker rather than randomly assigned. We suggest this section be clarified to explain the role of bilingual workers more clearly.

Identifying LEP individuals in HIX and MA-21

The application currently has a field where applicants can identify their preferred language. The draft Plan indicates only two uses for this field, identifying when a language exceeds the threshold for translation, and issuing Spanish language notices to individuals who express a language preference for Spanish. In addition to revising the application question so that it better serves data needs as recommended by DPH (see footnote 3 above), the preferred language should be flagged for purposes of other communications. See federal guidance p. 47320. A flag in the system would enable the MEC or Customer Service to see the individual’s preferred language and be alerted to offer the applicant or member who calls a free interpreter. The flag would also be important if the agency were to initiate a communication, including the use of robocalls or email or text messages to remind the client of imminent deadlines or when referring a case for further processing by another unit such as program integrity or the bureau of special investigations. In future the flag could also be a factor taken into account in making auto-assignments into managed care in order to auto-assign an LEP member to a bilingual provider if available, or to alert the MCO or ACO of the need for an interpreter.

Identifying LEP individuals using the telephone

MassHealth uses many 800 numbers but the two most commonly used are the number for the Customer Service (Maximus) 800-841-2900 and the number for the MECs 888-665-9993. Both are answered by an automated attendant in English and Spanish. For callers who speak other languages, it is necessary to stay on the line until the English language menu has run through a series of options at which point the call is, in most cases, answered by Customer Service. The draft Plan indicates that Customer Service provides phone interpretation with its bilingual staff for seven languages and for other languages uses the language line.

Attached is a copy of Customer Service protocol that was produced in August 2015 pursuant to a record request. The protocol does not require Customer Service to inform callers that interpreter services are available free of charge. Instead it advises when an individual's native language is not English "Offer your assistance in English first, because it can be impolite to suggest someone needs help with their language." If a caller declines to continue in English, Spanish callers are transferred to a Spanish Queue presumably to await a Spanish speaker. It is not clear whether this step is necessary for callers who have already selected the Spanish language option in the automated system; these callers should be sent directly to a Spanish-speaking representative. All other speakers will have to be called back. Without the benefit of an interpreter, the Customer Service representative must "attempt to verify the call-back phone number." Before submitting the call back request (Super Q escalation) the representative is again instructed "please offer your assistance in English first. Some members will be able to speak with/understand you, and this would prevent them from having to wait for a call back." Use of the Language Line is authorized only to resolve a Super Q Escalation and only after getting Supervisor approval.

The Language Access Plan should include "specific protocols" to instruct agency staff on how and when to secure (or procure) language services." Further protocols "should be designed for ease of use and with minimal approval or documentation required." State guidelines p. 5. The Customer Service protocol clearly falls short. It suggests that Maximus is either not in compliance with its contract or the contract terms are not in compliance with Title VI. The plan should require that interpreter services be offered with assurances that the services are free, confidential, and that use of an interpreter will not affect eligibility or benefits. Neither a call back nor supervisor approval should be required.

The draft Plan describes the process used by the MEC in more detail. It is far better than the Customer Service process but again requires the member to request an interpreter rather than requiring the worker to offer an interpreter and explain the use of an interpreter is free, confidential and will not affect access to services. Also, as a training resource for staff, the protocol does not describe how to access the Qwest language line or where to obtain this information.

We also recommend that the agency include additional language options in the automated attendant menu. There are available technologies for this purpose. For example, for less prevalent languages, there could be an English language option for "other" languages that offers additional language options. Selection of an option would connect to a recording in the appropriate language informing the person that the call will either be taken by a Customer Service representative who speaks their language or through an interpreter.

Notice of the right to an interpreter

The basic message that interpreter services are available should be provided in the top 15 languages on the MassHealth website and in agency publications and documents just as it will be for the Connector. CCIO's recent guidance for the Exchanges suggests this language.⁸

⁸ See footnote 4 above. CCIO also translated its suggested tag lines.
<https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/Appendix-B-Sample-Translated-Taglines.pdf>

If you or someone you are helping have questions about [MassHealth] you have the right to get help and information in your language at no cost. To talk to an interpreter call [Telephone No].

Translation of printed material

The state guidance requires documents to be translated into a language spoken by at least 5% of the population served. When an agency has regional offices, the threshold applies to 5% of the geographic region served by the regional office. State guidelines p. 6. However, as discussed earlier, as a recipient of federal funds, the Office of Medicaid is held to a higher standard. Under federal guidelines, an agency is considered in compliance with its Title VI written translation obligations if vital documents are translated for each LEP language group that constitutes 5% or 1,000 persons eligible to be served, whichever is less. Federal guidance p. 47319 (safe harbor). Spanish is clearly a prevalent language under any standard based on current member data alone. We believe an analysis of the geographic area served by the MECs will show that Portuguese also meets any threshold standard in the region served by the Taunton office. There remain at least eight additional languages identified by the current member data spoken by 1,000 or more: Chinese, Vietnamese, Haitian-Creole, Cape Verdean (Portuguese Creole), Arabic, Russian, Cambodian/Khmer, and Creole French.⁹ See the Table below. These languages are also among the top 15 language groups identified by CCIO in Massachusetts.

Aggregate h-Centive + MA21 Non-English Languages with over 1,000 speakers (descending order)	Current Languages Translated Member Booklet; Senior Guide; Need Help Guide*	Current Babel Notice/ Tag Lines Availability	Translation for all Vital Documents according to Draft Language Access Plan
Spanish	√	√	√
Portuguese	√	√	
Chinese	√	√	
Vietnamese	√	√	
Haitian Creole	√	√	
Cape Verdean Creole			
Arabic			
Russian	√	√	
Khmer/ Cambodian	√	√	
French			
Creole French			

⁹ Because this is a free text field in the application, the distinctions between Portuguese and Cape Verdean and between Haitian Creole, French Creole and French are not clear. The CCIO list does not appear to distinguish Portuguese from Portuguese Creole or French Creole from Haitian Creole

The proposed Language Access plan falls short of federal Title VI requirements in terms of compliance with translation of vital documents. We do not support the proposed plan to only translate vital notices in Spanish. According to the data, there are several other languages that exceed the 1,000 person mark. We strongly support that the Office of Medicaid provide vital notices in the following languages: English, Spanish, Portuguese, Chinese, Vietnamese, Haitian Creole, Arabic, Russian and Cambodian/Khmer in order to comply with Title VI regulations.

Enrollment assisters from Health Care for All, Health Care for the Homeless, and the League of Community Health Centers all raised the issue of the need for written materials translated into more languages. The HCFA Helpline noted that they were often called by LEP individuals who had received a notice they had no way to understand and that was also not available to the Helpline staff. A significant portion of their time was spent simply facilitating communication between LEP callers and MassHealth. Health Care for the Homeless specifically requested a Haitian-Creole application, as well as the opportunity to have other documents translated by request. One of the Health Centers noted that while the member booklets may be available in multiple languages, only the Spanish translation is posted on the website, the other translations can be obtained only by request through the English/Spanish telephone system. Limited English proficient users who speak any of the other languages are required to call MassHealth customer service to request copies which will usually require the use of the language line. We strongly suggest uploading the books to the website in all available languages. Further, the languages in which the member book are translated should include Arabic, it is the seventh largest language group based on the agency's own data.¹⁰

The draft Plan, which has an October 2016 effective date, states that all eligibility notices are available in Spanish. This is not true today. While the MA-21 system is able to generate Spanish notices, the HIX eligibility system has had no capacity to issue Spanish language MassHealth notices since it began making determinations in November 2014. We understand it is schedule to add this function by this summer. However, in the meanwhile, the agency will be initiating redetermination notices in late April and has expressed its unwillingness to delay notices for Spanish-speaking members until it can issue Spanish language notices. This decision violates Title VI.

Further, for notices that should be translated into additional languages but are not, the Plan should include a blueprint for when the agency will be able to increase its noticing capacity for other languages, and what relief there will be in the meantime. We address this further below in the section on monitoring.

Tag lines (Babel notices)

In the absence of translated documents, eligibility notices and certain other documents include a sheet of tag lines in English and seven other languages: Spanish, Cambodian, Chinese, Haitian-Creole, Lao, Portuguese, Russian and Vietnamese. The draft plan indicates that the text varies slightly. The only variation we have noticed is the telephone number that the person is directed

¹⁰ The member books and tag lines now include Lao. We are not certain why Lao was selected, but certainly have no objection to its inclusion.

to use to call MassHealth for a translation. Sometimes it is the MEC's number. The example in the draft plan shows the number for Customer Service.

Nothing in the protocol for the MEC or the training document for Customer Service addresses how the agency will comply with this offer to translate a document. This should be set out in the Plan and included in training.

We have several suggestions for improving the Babel notice. First include more language groups, particularly Arabic. Second, improve the text. The recent CCIO guidance for the exchanges suggests this text to accompany an eligibility notice:

This notice has important information about your application or coverage through "MassHealth". Look for key dates in this notice. You may need to take action by certain deadlines to keep your health coverage [or help with costs]. You have the right to get this information and help in your language at no cost. Call [telephone number].

If the telephone number is only answered in English or Spanish, the text should advise the caller to stay on the line until the recording ends and a person answers. A better solution would be to have a number that corresponds to each language so that the call can be flagged when it comes in as requiring an interpreter from a specific language group. Attached is a sample notice from Minnesota with different telephone numbers on its tag lines. If the system flags a preferred language, another option would be to add the tag line in the preferred language to the first page of the notice itself.

Website Access- We are concerned that the plan completely omits discussion of website content (other than including mass.gov/masshealth as a point of contact). The on-line application at mahealthconnector.org and the associated on-line account which enable a user to apply and obtain a real time determination, see notices, and report changes are vital document. They should be translated into Spanish under the state's 5% threshold just as the paper application is and paper notices will be. When paper applications and paper notices are available in other languages, the on-line application should similarly be translated into the appropriate languages.

The language plan should also address the general information content of the website. We are concerned that the proposed language access plan does not have accountability systems verification for quality control to ensure the webpage information is translated correctly.

Currently, the webpage mass.gov/masshealth is only partially translated by Microsoft translator, a computer generated translator that can be inaccurate, especially when translating specialized terms. The left-side tabs of the Masshealth website do not get translated by the external Microsoft software, currently LEP users are unable to use them to find information. The Masshealth website will not load without the person acknowledging that they may not be provided with an accurate translation. Further, selection of one's language is difficult given the long list of languages and the way they are ordered. See the attached screenshot showing Español located between Slovenscina and Svensk.

Training

The Draft plan devotes only two sentences to staff training. It notes there is a full day Diversity Awareness training but does not describe the content of the training with respect to language access. It also notes the posting of the plan itself on an internal website, but the plan currently does not provide detailed protocols to assist staff in such basic information as knowing how to access the language line or where to find this information. Nor does it mention any Eligibility Operations Memos or other documents available to MassHealth workers explaining Title VI obligations and the protocol for using the language line. Working with an interpreter can be challenging. Training should address when to offer an interpreter (people with some English may still need an interpreter to fully understand a communication), never to use a child as an interpreter, how to obtain an interpreter, how to use an interpreter, and confidentiality standards. While a general knowledge of Title VI and state law obligations to provide meaningful access to LEP individuals and the availability of the language line may be sufficient for employees who have little contact with the public, more extensive training is needed for Customer Service and the MECs.

Assuring that Managed Care Entities and MassHealth providers provide meaningful access to LEP individuals

As the primary recipient of federal Medicaid funds, the Office of Medicaid is responsible for assuring that its sub-recipients also comply with Title VI requirements. This is beyond the scope of the state guidelines, but clearly required under federal law. According to the CMS state operations manual, “the States themselves are considered the direct recipients of the Federal funds and may be considered to have a direct obligation to assure OCR [the Office of Civil Rights] of their compliance by assuring that funds go to providers who are in compliance.”¹¹ The US Department of Health and Human Services Office for Civil Rights further states that it “will concentrate its compliance efforts [re: Title VI of the Civil Rights Act] on the state Medicaid agencies and will look primarily to them to ensure compliance by individual providers.”¹²

The Draft Plan entirely omits how the Office of Medicaid will assure that Managed Care Entities (MCEs) and MassHealth participating providers fulfill their obligation to assure meaningful access to LEP individuals. With respect to MCEs there are governing federal regulations, and we know LEP issues are addressed in the managed care contracts. With respect to MassHealth participating providers there is a need for both direction to providers on their obligations, and practical assistance to them in meeting their obligations.

Monitoring & Complaints

The draft plan notes that the agency has a highly placed full-time employee who serves as a diversity officer, but does not describe what actions this employee will undertake to train, monitor or enforce compliance with language access rights for LEP individuals served by the agency. It is not clear if the diversity officer is also the Title VI officer.

¹¹ CMS State Operations Manual, section 1008C.

¹² 45 CFR section 84, appendix A

In the section on Complaints, the plan does not describe how LEP persons will be notified of the existence of a complaint procedure, or how the process will operate. What happens after a complaint is filed? What relief is available to an LEP person who was denied meaningful access to MassHealth services and may have lost benefits as a result or may not be able to locate a provider willing or able to communicate with her? This should be addressed in the plan, and this information should be available to LEP individuals.

Conclusion

We are glad that the Office of Medicaid is moving forward with its language access plan. We believe meaningful access to services for non-English speakers will further the agency's ongoing efforts to cover the uninsured and provide high quality cost effective care to all of its members. Please let us know if we can supply any further information or assistance as the agency finalizes its plan.

Yours truly,

Vicky Pulos, Health Law Attorney
Teresita Ramos, Language Access Attorney

Attachments:

DTA Brochure: Your Right To An Interpreter (ENG)

Call Center Guidelines, Handling Callers Who Speak Another Language (Aug. 2015 record request)

Tag lines used in Minnesota

Screen Shot of MassHealth Website



Your Right to Interpreter Services

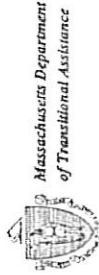
IS Brochure - Eng (Rev. 1/2013)
18-115-0113-05

Believing you can.



www.mass.gov/dta

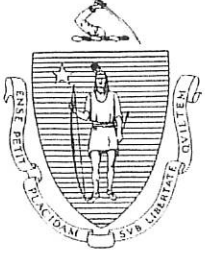
The Massachusetts Department of Transitional Assistance (DTA) is committed to overcoming language barriers that would deprive any person of equal access to, and an equal opportunity for participation in, DTA programs. DTA's policy combining use of bilingual staff, interpreter services and translated materials is to communicate effectively with persons who are not fluent in English.



- I speak English
- Yo hablo Español (Spanish)
- 我说中文 (Chinese)
- ខ្ញុំនិយាយខ្មែរ (Cambodian)
- ຂ້ອນກາລາລາວ (Laotian)
- Tôi nói tiếng Việt (Vietnamese)
- Mwen pale kreyol (Haitian Creole)
- Je parle français (French)
- Հայերէս եր հոսիմ (Armenian)
- Я говорю по-русски (Russian)
- Ελληνικά (Greek)
- Parlo Italiano (Italian)
- Eu falo Português (Portuguese)
- Mówię po polsku (Polish)

1. Please identify your primary language that you wish to use when you apply for services (by checking the proper box on the "I Speak" card or by other means).
2. Your need to communicate in a language other than English will not delay determination of your eligibility or your receipt of DTA benefits and services.
3. If no bilingual staff member is available, your local office will furnish an interpreter when one is needed, unless you prefer to bring your own interpreter.
4. If you need help translating English language notices or letters from the Department, your local office will assign a bilingual staff member or interpreter to assist you.
5. If you request a Fair Hearing and will need an interpreter at the hearing, contact the Division of Hearings at P.O. Box 120167, Boston, MA 02112, telephone number 617.348.5321 or 1.800.882.2017.
6. If you have any problems obtaining interpreter services at DTA, please notify the Director of Equal Opportunity, 5th floor, 600 Washington St., Boston, MA 02111, telephone number (617) 348-8531.

IMPORTANT! This notice affects your rights and responsibilities and should be translated immediately. If you need help translating this notice, your local office will assign a bilingual staff member or interpreter to assist you.



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
600 Washington Street
Boston, Massachusetts 02111

MassHealth

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

DANIEL TSAI
Assistant Secretary for MassHealth

www.mass.gov/cohhs

August 13, 2015

Ms. Victoria Pulos
Massachusetts Law Reform Institute
99 Chauncy Street, Suite 500
Boston, Mass. 02111

Dear Ms. Pulos:

I am writing in response to your public records request of June 1, 2015, in which you seek the Office of Medicaid Language Access Plan, as well as training materials and other documents used by MassHealth Customer Service in conjunction with the language line and non-English-proficient callers.

I have enclosed two documents that are responsive to your request for Customer Service materials. We are in the process of updating the Office of Medicaid Language Access Plan, which will be posted on MassHealth's website once it is finalized.

Sincerely,

Jon Sciff
Custodian of Records
MassHealth Privacy Office
617-210-5391

cc: Cassandra Chung
Office of the Supervisor of Records
re: SPR15/628



Related Resources

[How to Transfer A Call \(Article 1521\)](#)

[Interacting with the Caller \(Article 1515\)](#)

[Speed Dials \(Article 1520\)](#)

Call Center Guidelines

Handling Callers Who Speak Another Language

This article explains how to handle calls from members who speak languages other than English.

Overview

When you receive a call from an individual whose native language is not English, don't assume the caller needs interpretation services. Offer your assistance in English first, because it can be impolite to suggest someone needs help with their language.

If a caller does not wish to continue in English, CSRs have the following options:

1. Transfer to Spanish Queue (*For Spanish speaking members*)
2. Submit a Super Q Language Escalation (*For languages other than Spanish*)
3. Use the Language Line (*Only used to resolve Super Q Escalations, after getting Supervisor approval*)

Note: If there is someone present with the member who is able to translate, you may use that person. Remember to obtain verbal permission to share protected health information (PHI) in this scenario.

Transfer to Spanish Queue

If someone calls requesting a Spanish-speaking CSR, transfer them to our Spanish Queue:

1. Press [Transfer]
2. Press [Sys Speed] (*in some cases it's called 'Speed Call'*)
3. Press [11]
4. Press [Transfer]

Note: There is no need to submit a Super Q Escalation, or use the Language Line for Spanish-speaking callers.

Submit a Super Q Language Escalation

If someone calls requesting a language other than Spanish, submit an 'Escalation Forms, Misc > Super Q Language' escalation to have someone call them back in their language. When submitting this escalation, always:

1. Select the caller's language from the 'Issue' dropdown
2. Attempt to verify the call-back phone number. Even if you are having difficulty communicating, capturing the correct call-back number is critically important

Super Q Language

When to Use: If someone calls requesting a language other than English or Spanish, submit an escalation to have someone call them back in their language.

Description: Before submitting a Language Super Q for a member, please offer your assistance in English first. Some members will be able to speak with/understand you, and this would prevent them from having to wait for a callback.

- The language can be selected in the escalation under the "Issue" tab. To better assist the caller, make sure to also select a "Call Reason". If the language is not in the drop-down list choose other and indicate the language in your notes.
- Even if you are having a lot of trouble communicating attempt to verify the phone number of the member. Submitting this escalation without any contact or identifying information means it cannot be resolved.
- If the member indicates they need to be transferred to the MEC **Do Not Request a Language Super-Q**. They use their own translation services at those offices.

Timeframe: N/A

Visual Aids:

The members' language will show up in the Escalation queue.

Queue: Super Q Language (Member Calls) Refresh Show customer Follow-up...

Date / Time	Tracking #	Status	Assigned To	Customer ID	Customer
2010/09/20 03:35 PM	4398194	Open	Kadutar R		
2010/09/20 11:13 AM	4396988	In-Progress: 1st Co...	Remo A		
2010/09/20 11:33 AM	4397133	In-Progress: 1st Co...	Remo A		
2010/09/20 11:29 AM	4397119	In-Progress: 1st Co...	Remo A		
2010/09/20 03:52 PM	4398287	In-Progress: 1st Co...	Remo A		
2010/09/20 03:28 PM	4398156	In-Progress: 1st Co...	Ana T		
2010/09/20 04:54 PM	4398603	Open			

Related Resources:

[Article 1530](#)

Note: If you can determine the caller ultimately needs to be transferred to the MEC, do not submit a Super Q Language escalation. The MEC uses their own translation services.

Use the Language Line

Only use the Language Line to resolve Super Q Escalations, after getting Supervisor approval. If authorized, follow these steps:

1. Dial 9 then 1-800-874-9426
2. A recorded voice will ask for your 6-digit Client ID. Enter '226061'
3. Press 2 for all other languages
4. Speak name of language needed. Your choice will be confirmed
5. A recorded voice will ask for your personal code. State your CSR ID# ('_ _ _ _ _'). Provide all 5 digits
6. The Interpreter will say "Go ahead. Interpreter # _ _ _ _ _ is on the line"
7. Brief the interpreter on the purpose of the call, and bring member into the call by following the Conference Call Instructions

Conference Call Instructions

1. While the interpreter is on the line, press [Conference]. This places interpreter on hold and gives you a dial tone
2. Dial 9 + number of the member who needs translation services. When the call is answered, you may talk privately with the member
3. Press [Conference] again to include all three parties on call

8. Proceed as you would with an English call while allowing the interpreter to relay information back and forth to the non-English speaker
9. Once the issue has been resolved, tell interpreter to "End Call"

Minn. Tag Lines

Attention. If you want free help translating this information, ask your worker or call the number below for your language.

ملاحظة: إذا أردت مساعدة مجانية في ترجمة هذه المعلومات، فاسأل مساعدك في مكتب الخدمة الاجتماعية أو اتصل على الرقم 1-800-358-0377.

កំណត់សំគាល់ បើអ្នកចង់បានជំនួយក្នុងការបកប្រែព័ត៌មាននេះដោយមិនគិតថ្លៃ សូមសួរអ្នកកាន់សំណុំរឿងរបស់អ្នក ឬ ទូរស័ព្ទទៅលេខ 1-888-468-3787 ។

Pažnja. Ako vam je potrebna besplatna pomoć za prevod ove informacije, pitajte vašeg radnika ili nazovite 1-888-234-3785.

Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, nug koj tus neeg lis dej num (worker) lossis hu 1-888-486-8377.

ໂປດຊາບ. ຖ້າຫາກທ່ານຕ້ອງການການຊ່ວຍເຫຼືອໃນການແປຂໍ້ຄວາມດັ່ງກ່າວນີ້ຟຣີ, ຈົ່ງຖາມນຳພນັກງານຊ່ວຍວຽກຂອງທ່ານຫຼືໂທສໍາຕາມເລກໂທ 1-888-487-8251.

Hubaddhu. Yoo akka odeeffannoon kun sii hiikamu gargaarsa tolaa feeta ta'e, hojjataa kee gaafaddhu ykn lakkoofsa kana bilbili 1-888-234-3798.

Внимание: если вам нужна бесплатная помощь в переводе этой информации, обратитесь к своему социальному работнику или позвоните по следующему телефону: 1-888-562-5877.

Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la'aan ah, weydii hawl-wadeenkaaga ama wac lambarkan 1-888-547-8829.

Atención. Si desea recibir asistencia gratuita para traducir esta información, consulte a su trabajador o llame al 1-888-428-3438.

Chú Ý. Nếu quý vị cần dịch thông-tin này miễn phí, xin gọi nhân-viên xã-hội của quý vị hoặc gọi số 1-888-554-8759.

LB2-0001 (1-08)

ADA3 (5-09)

This information is available in alternative formats to individuals with disabilities by calling (651) 431-2670 or (800) 657-3739. TTY users can call through Minnesota Relay at (800) 627-3529. For Speech-to-Speech, call (877) 627-3848. For additional assistance with legal rights and protections for equal access to human services programs, contact your agency's ADA coordinator.



El sitio oficial de la Oficina Ejecutiva de salud y servicios humanos (EOHHS)

Salud y servicios humanos

Departamentos y divisiones

Search...

- Inglés
- Indonesia
- Italiano
- 日本語
- 한국어
- Latviešu
- Lietuvių
- Melayu
- Norsk
- فارسی
- Polski
- Português
- Română
- РУССКИЙ
- Slovenina
- Slovenščina
- Español
- Svensk
- ภาษาไทย
- Türkçe
- УКРАЇНСЬКА

servicios humanos SEARCH

Indice del tema de la A la Z

Salud & seguros

Consumidor

Concesión de licencias

Proveedor

Investi

ncias de gobierno

Departamentos

- Inicio
- Consumidor
- Seguro (incluyendo MassHealth)
- Miembro de MassHealth Info

Miembro de MassHealth Info

Diversos documentos informativos para:

Original Microsoft Translator X
 Voter Registration

Actualizaciones de cobertura

MassHealth Wellness

Información para personas con discapacidad

Registro de votantes

Si usted es un ciudadano estadounidense, residente en Massachusetts y 18 años de edad en o antes del día de la elección, usted puede inscribirse para votar. Sólo imprimir este [formulario de inscripción de votante](#) y traer o envíela por correo a su ciudad o Ayuntamiento. Si necesita ayuda, usted puede llamar al 1-800-841-2900 (TTY: 1-800-497-4648 para personas sordas, duras de oír y el impedimento del habla).

Impuesto importante información para afiliados de MassHealth

Un cuidado: MassHealth y Medicare

Senior Care Options (SCO)

¡ Conoce SCO! Un plan de atención médica que es tan individual como usted!