



A Physician's Guide to Language Interpreter Services

**Including an Overview of Regulations,
Reimbursement Issues and Sample Forms**

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I. Introduction

The United States is home to millions of individuals who have limited English proficiency (LEP). Delivering quality health care services to ethnically diverse populations in a cost-effective manner is a growing challenge for health care providers. An even bigger challenge is finding the information, resources, and technical assistance to design and implement linguistically and culturally appropriate health care programs and policies.

This toolkit is designed to assist physicians and clinic managers in understanding state and federal law as it pertains to requirements to provide foreign language interpreter services. It is also designed to assist physicians and clinics in developing and implementing policies relating to linguistic access.

II. Overview of Relevant Laws

The legal requirements for physicians and clinics to provide interpreter services are not newly enacted but instead stem from Title VI of the Civil Rights Act of 1964.

Title VI of the Civil Rights Act of 1964 states, "*No person in the United States shall, on grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.*" Title VI applies to all recipients of federal funds, without regard to the amount of federal funds that they have received. It covers physicians who treat Medicaid or Medicare patients.

Under federal law, providers are prohibited from singling out patients based on race or national origin, and cannot employ practices that have a discriminatory impact on individuals based upon their race or national origin. Federal regulations that implement Title VI provide that:

A recipient . . . may not . . . utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program [with] respect [to] individuals of a particular race, color or national origin.
[42 C.F.R. 80.3(b)(2)]

The federal law covers all entities that receive federal financial assistance, including funds from the Department of Health and Human Services, either directly or indirectly. These entities include physicians, clinics, and hospitals that operate, provide, or engage in health programs and activities that receive federal financial assistance.

This means that physicians who receive financial reimbursement or payments under the Medicaid and/or Medicare programs are required to comply with Title VI. If a clinic is participating in either or both programs, it is obligated under federal law to ensure that all of its patients, including all LEP patients, are able to receive effective communication in the course of the office visit. The federal law requires clinics to provide access to health care services, including language interpreting services, when needed, for all patients who have limited English proficiency, not only those patients who are actually enrolled in a public financial health program.

Under the law, physicians and other health care providers need to notify LEP patients regarding their right to language assistance services when needed. Physicians and clinics have a responsibility to ensure that their policies and procedures do not deny their patients access to health care services because of a language barrier.

The key to providing access to health care services for LEP persons is to ensure that the language assistance provided results in accurate and effective communication between the provider and the LEP patient. The U.S. Department of Health and Human Services' Office for Civil Rights recommends doing the following to ensure compliance with the law:

1. Assessing the language needs of the patient population;
2. Developing a written policy regarding language access that will ensure meaningful communication;
3. Training staff members so they understand the policy and are capable of carrying it out; and
4. Monitoring to ensure LEP patients have meaningful access to health care.

Failure to implement one or more of these procedures does not *necessarily* mean noncompliance with Title VI. In case of a complaint or an investigation, the Office for Civil Rights will review the circumstances involved and determine compliance on a case-by-case basis. The assessment will take into account a number of factors, including the size of the clinic, the size of the LEP population, the nature of the services provided, the resources available, the frequency of different languages encountered, and the frequency with which LEP persons come into contact with the services.

To view the U.S. Department of Health and Human Services' Guidance document on ensuring access to LEP patients, go to the following link:
<http://www.hhs.gov/specificpopulations/index.shtml>

III. Ensuring Linguistic Access

In order to ensure equal access to and quality of health care for diverse populations, clinics and health care providers should work to maintain an environment that:

- Promotes and supports staff in working respectfully and effectively with LEP patients and each other in a culturally diverse environment;

- Creates a comprehensive strategy to provide culturally and linguistically appropriate health care;
- Maintains ongoing staff education and training in culturally and linguistically competent health care delivery;
- Provides patients with limited English proficiency access to interpretation services;
- Uses a variety of methods to collect accurate information about the cultural diversity of the clinic's service area.

By providing better access, health care providers can greatly improve health outcomes, patient care, and the quality of care. They also can save money and time and prevent legal complications.

Use of Family Members as Interpreters

The Office for Civil Rights' compliance guidance document suggests that the clinic first inform the LEP patient of the right to receive free interpreter services. The use of family and/or friends as interpreters should occur only after the offer for assistance has been declined and documented in the patient's record.

IV. Resources

The Minnesota Department of Education has developed an online database of interpreters and translators, detailing the languages that they speak and write, and information regarding their training and experience. The database is located at <http://www.ecsu.k12.mn.us/interpreter/> and is searchable by locality and language.

Other resources for language assistance include:

- Community volunteer networks
- Telephone language lines
- Private interpreter services

The American Medical Association publishes *The Cultural Competence Compendium*, which contains information about language and cultural barriers. This compendium lists many organizations that specialize in providing interpretation services. The AMA document can be accessed by visiting the AMA's website at www.ama-assn.org

V. Reimbursement

Foreign language interpreter services are a covered benefit in the fee-for-service Medical Assistance program. Enrollees in pre-paid Minnesota Health Care Programs (Medical Assistance, General Assistance Medical Care, MinnesotaCare) are covered for interpreter services and it is recommended that the specific health plan be contacted for billing information.

Under the fee-for-service Medical Assistance Program, foreign language interpreters are reimbursed at a rate of \$12.50 per 15-minute increment of services with a two-hour maximum for an office visit. All participating providers are eligible for reimbursement under the fee-for-service Medical Assistance Program. According to the Provider Manual, the provider is responsible for arranging and paying for the interpreter service. The Minnesota Department of Human Services recommends that providers use the same principles that they would normally use when hiring, contracting or arranging with a person to provide services to your patients.

For further information on billing and reimbursement under fee-for-service Medical Assistance, contact the Minnesota Department of Human Services Provider Help Line at 651-282-5545.

VI. Sample Forms

Sample Patient Consent Form

Clinics may use this form to inform patients of the clinic's policies regarding the use of interpreters. The form could be translated into the clinic's most commonly encountered foreign languages.

Consider including the following elements in the patient consent form:

- (a.) Clinic's statement of principles (i.e., that the clinic is committed to ensuring equal access regardless of national origin/language barriers and will ensure effective communication is achieved with all patients);
- (b.) Clinic's specific policies regarding paying for interpreters, such as:
 - Clinic maintains discretion over how to achieve effective communication, such as hiring of interpreters; utilizing telephonic language lines, etc.
 - Clinic will pay interpreters based upon 15-minute increments (modeled after Minnesota's Medicaid payment policies);
 - Clinic will pay for travel time for interpreters at Clinic's discretion;
 - Clinic will not pay for interpreters who are family members of the patient.

SAMPLE FORMS

ABC Clinic

Clinic Policy Ensuring Linguistics Access

1. The ABC Clinic is committed to ensuring equal access to all of our patients regardless of their national origin and language barriers. ABC Clinic will ensure effective communication is achieved with all of our patients to the greatest extent possible.
2. The ABC Clinic will arrange for foreign language interpreter services when effective provider-patient communication in English is not possible.
3. The ABC Clinic will determine, with input from the patient, how best to achieve effective communication, based upon relevant factors, including the anticipated length of time of the encounter and the nature of the examination or follow-up.
4. ABC Clinic's Policies Regarding Payment of Interpreters: (add specific clinic policies, such as incremental payment units; payment for travel time, etc.)
5. Other Clinic Policies:

Date:

**ABC Clinic
Patient Consent Form**

I understand ABC Clinic's Policy to Ensure Linguistic Access and hereby give my permission for and Doctor _____ to use language interpreter services for the purposes of communicating medical information. I understand that the interpreter will have access to my medical information, only through the interpretation of this information. I understand that the interpreter will NOT have access to my written medical records.

Language Interpretation required in:

Permission Granted by:

(Signature of Patient or Parent/Guardian)

Date of Signature:

Witnessed by:

(Clinic Representative – Name and Title)
