

Federal and State Regulations on Discrimination, Linguistic Access, Interpreters, and Cultural Competence

The courts have generally interpreted Title VI of the Civil Rights Act of 1964 to require meaningful access to services and equal care for people with Limited English Proficiency (LEP). Since 2000, federal and state agencies have become more active in interpreting and enforcing Title VI. Partnership HealthPlan of California medical providers are bound by federal and California regulations and by PHC contracts with the state, as referenced below.

Summary of Medical Provider Obligations

- Offer patients with LEP and hearing-impairments a qualified interpreter at no cost to the patient. Providers may access PHC-paid interpreter services for PHC members by logging on to e-Services at our website.
- Document every patient's language in the medical record.
- Do not require patients to bring their own interpreter or suggest they use a friend or family member
- Document in the patient's medical record if they refuse an interpreter and the preference to use a family member or a friend.
- Ensure meaningful access and equal care through culturally competent services.

Federal Regulations

Title VI, Civil Rights Act of 1964, *Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons* - Requires language assistance to persons with Limited English Proficiency. Applies to all entities, including medical providers that receive federal funds from Medicare, Medicaid and/or the State Children's Health Insurance Program (SCHIP). (In California, Medi-Cal uses Medicaid funds, Health Families use SCHIP funds.) <http://www.archives.gov/eo/laws/title-vi.html>

Section 1557 of the Patient Protection and Affordable Care Act, prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>

Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, August 2000, mandates language services for LEP clients enrolled in federally funded programs and requires all federal agencies to issue guidelines for compliance with the Civil Rights Act of 1964. <https://www.justice.gov/crt/executive-order-13166>

Office of Civil Rights, US Dept. of Health and Human Services, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, published in the Federal

Register established discrimination based on “national origin” as unequal access for people with LEP, revised 1/6/2000. <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html>

CLAS Standards - National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health Care, 2013.
<https://www.thinkculturalhealth.hhs.gov/pdfs/EnhancedNationalCLASStandards.pdf>

Culturally and Linguistically Appropriate Services – Advancing Health with CLAS; New England Journal of Medicine; <https://www.nejm.org/doi/full/10.1056/NEJMp1404321>

ADA - Americans with Disabilities Act Title III, Regulations issued by the US Department of Justice, state that medical care providers are considered a "place of public accommodation" as defined by the law. They are required to provide necessary accommodations for a persons with disabilities. This includes sign language interpreters and/or other accommodation for a hearing-impaired consumer.

Although, this law states the health care provider must pay for the interpreter or auxiliary aid for a medical appointment (considered part of annual overhead of doing business); PHC provides these services at *no cost* to the provider or members. The provider may not charge the member/patient for these services.

http://www.ada.gov/regs_footer.htm

California State Regulations

Title 22, California Code of Regulations, Regulations for Medi-Cal Program – see section 51007- Discrimination. [California Code of Regulations 51007. Discrimination.](#)

AB800 - California Assembly Bill 800, effective 1/1/06, requires all health facilities and primary care clinics to include a patient's principle spoken language on the patient's health record. This excludes long term care facilities meeting certain criteria.

SB853 - California Senate Bill 853, effective 1/1/06, requires health plan enrollees to have "access to language assistance in obtaining health care services." Essentially, requires all health plans to meet the same cultural and linguistic standards already in place for Medi-Cal. Provisions for interpreters, translation of written materials, and needs assessment are included.

For More Detailed Summaries of Regulations

National HealthLaw Program, Inc., Ensuring Linguistic Access in Health Care Settings: Legal Rights and Responsibilities, 2^od edition August 2003.

<http://kff.org/medicaid/report/ensuring-linguistic-access-in-health-care-settings-2/>