



Health Equity and Patient Civil Rights: a Federal Perspective

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The Law:
Title VI of the Civil Rights Act

No person in the United States shall, on the 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.

Section 601 of the Title VI of the Civil Rights Act of 1964
42 U.S.C. Section 2000d et. seq.

Race, Color, National Origin

Title VI addresses three bases:

- *Race*
- *Color*
- *National Origin*

"Breaking Down the Language Barrier: Translating Limited English Proficiency Policy Into Practice"



Who Is a Limited English Proficient (LEP) Individual?

- An individual who does not speak English as their primary language.
- An individual who has a limited ability to read, write, speak, or understand English may be limited English proficient, or “LEP”.
- An individual may be eligible to receive language assistance with respect to a particular type of service, benefit, or encounter.

The Heart of the Matter

Apply the four factor test to decide what steps to take to provide meaningful access to the recipient's various services, access points, documents, etc.

Four Factor Analysis

- 1) Number and proportion likely to be served
- 2) Frequency of contact
- 3) Nature and importance of the program or service
- 4) Cost and resources available

Applying the 4- Factors: Examples

- Significant number: Montgomery County, MD – local health clinics may need immediately available oral interpreters (Bilingual staff).
- Moderate population: Harrisburg, PA providers may want to have interpreters under contract or use a telephone service
- A rural county: Garrett County, MD with few LEP patients and limited language resources: may want to use a telephone service

Two Types of Language Assistance

- **Oral interpretation: either in person or via telephone interpretation service**
- **Written translation: can range from translation of entire document to translation of a short description of a document**

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 appropriate to the need
- ✓ Demonstrate an understanding of the need for confidentiality and impartiality
- ✓ Understand the role of interpreter without deviating to other roles

Selecting Language Assistance Services

Options for Oral Language Services:

- Bilingual Staff
- Staff Interpreters
- Contractors
- Telephone Lines & Video Teleconferencing
- Community Volunteers

Use of Family Members or Friends: Special Concerns

Providers should respect LEP Persons' desire to use an interpreter of their own choosing instead of free language assistance expressly offered by the recipient, subject to:

- o Issues of competence, appropriateness, conflicts of interests, and confidentiality.
- o Heightened caution when a LEP person asks a minor child to serve as an interpreter.

Other Considerations

When Title VI and its implementing regulations recommends that language services be provided, recipients should:

- Inform the LEP person that interpreter can be provided at no **COST**.
- Not require LEP persons to provide own interpreter.
- Not plan to rely on family members or friends as interpreters.
- Evaluate whether, because of special concerns, interpreter should be provided in any case.



Health Equity and Patient Civil Rights for Individuals with Disabilities : An HHS Office for Civil Rights Perspective

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Laws Protecting Persons with Disabilities

- **Section 504 of the Rehabilitation Act of 1973** prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- **The Americans with Disabilities Act of 1990** prohibits discrimination on the basis of disability by covered entities.
 - Title II applies to public entities.
 - Title III applies to places of public accommodation.

Definitions

- **Handicap/disability**
 - Physical or mental impairment to a body system that substantially limits one or more major life activities
- **Individual with a Disability**

Definitions (continued)

- A person who has an impairment
 - *person using a wheelchair*
- A person who has a history of an impairment
 - *person who has had cancer*
- A person who is viewed by the recipient to have an impairment
 - *person with a facial disfigurement*
- Person who is associated with an individual who has a disability

Obligations Under Both Statutes

- Ensure persons with disabilities are not segregated
- Ensure they have equal opportunity to benefit from services
- Provide accommodations or modifications to afford equal access through the use of auxiliary aids
- Facilities where services are located must be accessible



For Persons with Sensory Impairments

- These laws prohibit discrimination on the basis of disability and require grantees to ensure effective communication with individuals who are deaf or hard of hearing.
- Grantees must provide auxiliary aids and services where necessary to avoid discrimination and may not charge for the auxiliary aid or service.
- Grantees do not need to provide an auxiliary aid or service if to do so would fundamentally alter the nature of the program or result in an undue financial and administrative burden.

Auxiliary Aids

- Effective Communication
 - assessing the communication needs of deaf and hard of hearing individuals
 - range of auxiliary aids
 - writing notes
 - lip reading
 - interpreters
 - video interpreting
 - NOT family members

Other Auxiliary Aids

- For Visually Impaired Individuals
 - Note takers
 - Readers
 - Printed materials in alternative media
 - Braille
 - Large print



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