

GENERAL ADMINISTRATION 2.0

Title VI Limited English Proficiency (LEP) Patient Services - 2.16

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Policy

Title VI of the Civil Rights Act of 1964 provides that no person 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 that receives federal financial assistance. A number of programs in the Tennessee Department of Health (TDH) receive federal financial assistance from federal agencies including the Department of Health and Human Services, and the United States Department of Agriculture; therefore, TDH must comply with the provisions of Title VI. This policy deals specifically with assuring that persons with Limited English Proficiency (LEP) receive the language assistance necessary to afford them meaningful access to these public health services.

Applicability

This policy is applicable to all TDH programs that are receiving federal financial assistance, including staff in the local health departments and regional offices.

Purpose

The purpose of this policy is to clarify the responsibility of TDH and its subrecipients in serving persons with LEP pursuant to Title VI and to ensure that TDH and local health departments provide reasonable, timely, and appropriate language assistance to the LEP populations each serves.

Definitions

1. Interpretation- The process by which the spoken word is used when transferring meaning between languages.
2. Limited English Proficiency (LEP) persons Or LEP individuals- Persons who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English are limited English proficient, or LEP.
3. Minor Children- Individuals less than eighteen (18) years of age.

4. Qualified Interpreter- An individual who is competent to provide interpretation services at a level of fluency, comprehension, impartiality and confidentiality appropriate to the specific nature, type, and purpose of the information at issue.
5. Translation- The process of transferring ideas expressed in writing from one language to another language.
6. Vital Document- Paper or electronic written material that contains information that is critical for accessing a program or activity, or is required by law, such as consent forms, applications, and notices of rights.

Procedure

Each region and metro county health department will develop a written LEP plan to provide a framework for the provision of timely and reasonable language assistance and for eliminating or reducing LEP as a barrier to access programs receiving federal financial assistance. The following procedures will be implemented in each rural public health region. These procedures are designed to determine the appropriate language assistance services to ensure an LEP individual has meaningful access to services. These procedures incorporate the four-factor analysis described in the federal government's LEP guidance documents. The analysis is fact-dependent and considers:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and,
4. The resources available to the program and costs.¹ Guidance documents published by the federal government.

1. Needs Assessment

A) Data Collection:

Each clinic site will collect data in PTBMIS throughout the year concerning the interpreter needs of each patient or client. Each patient or client will be asked if they need interpreter services during his/her visit. If the patient answers "yes", the primary language field of PTBMIS will be filled out accordingly. If the patient or client does not need interpreter services, English will be coded as the primary language. In addition to the primary language information collected in PTBMIS, the information will also be included in a prominent place in the medical record of each LEP patient or client.

B) Data Reporting:

Within 60 days of the end of each calendar year, a report will be developed for each health department site that includes:

1. Percentage of persons in the service area that may potentially be served
2. Total number of unduplicated patients served

¹ The intent is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens.

3. Total number of unduplicated patients with English as primary language
4. Total number of unduplicated patients whose primary language is not English
 - a. Number of patients should be listed by language spoken and should also include the percentage each language is of the total unduplicated patients served.

Example:

Clinic A: Year 2007

Unduplicated patient count: 2,000

Primary language spoken:

Spanish	300	(15.0% of 2,000)
Chinese	10	(0.5% of 2,000)
Russian	5	(0.25% of 2,000)

C) Data Analysis:

After reviewing the report described above, a determination will be made concerning the points of contact in each clinic at which interpreter services are needed. This determination may require a more in-depth analysis of the particular services and programs the LEP population is accessing. As previously mentioned, this assessment will incorporate the four-factor analysis described in the federal government's LEP guidance documents.

For example: For most LEP patients, interpreter services will be needed at the front desk and in the clinic room. For some patients, interpreter services might be needed in another location such as in the home. This might be the case when a TB patient is receiving home-based DOT or a pregnant woman is receiving home visitation services.

2. Language Access

A) Oral Language Services (Interpretation):

After all available data has been analyzed; a written plan will be developed for each clinic site in order to assure effective oral language interpretation at all points of contact where language assistance is needed. This plan may include a variety of procedures depending on the size of each LEP group and availability of resources. Resources may include, but are not limited to, bilingual staff, staff interpreters, contracts with outside interpreters, and the use of a telephonic language interpreter service. This plan should also include procedures for assuring bilingual staff and interpreter competency, as well as ensuring interpreters understand and follow confidentiality and impartiality rules to the same extent as the program staff.

An interpreter service is the preferred method of interpretation followed by qualified bilingual staff; however, some LEP persons may reject those options and request to use a family member or friend as an interpreter. Family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and after the LEP person has understood that an interpreter at no charge to the person is available through the facility.

If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, the facility will again offer its own interpreter services. However, an LEP person can always decline. Still, to ensure effective communication for patient and clients, the facility may utilize a qualified TDH interpreter to oversee the communication assistance provided by family and friends.

Any conversations about interpretation should be well documented in the patient's file. The LEP Person receiving services shall complete a release of information if the LEP person chooses to use a family member or friend as an interpreter.

Minor Children will not be used to interpret, in order to ensure confidentiality of information and accurate communication.

B) Written Language Services (Translation):

Any written materials or information on websites or online platform¹¹ that require translation shall be translated through the Tennessee Foreign Language Institute. Each health department site, during the annual Title VI assessment and planning process described above, will assess the need for translated written materials and information in accordance with the following thresholds:

The health department provides written translations of vital documents and information for each eligible LEP language group that constitutes five percent (5%) or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Such translated documents must be available in the same places where the English versions are made available to the public. If needed, translation of other documents, including documents brought into clinic sites by LEP persons, can also be provided.

If there are fewer than 50 persons in a language group that reaches the five percent (5%) level, the health department does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

TDH and its programs must ensure that LEP individuals have meaningful access to its program websites and online automation services, including but not limited to online applications, EBT account management platforms, forms and brochures. This requirement also applies to any subrecipients that advertise or provide TDH's services.

Automated machine translation software such as Google Translate is not accurate and does not ensure meaningful access to TDH's services. Therefore, translation software should not be used to perform translations or portions of translations without the involvement of a qualified, certified translator to proofread and edit final versions of all vital information for accuracy before it is made available to the public. Alternatively, TDH may attach vital information that has been translated by qualified translators to translated hyperlinks on its webpages and online platforms.

Regional Directors will be responsible for notifying the Division of Community Health Services in writing of any state-level written material that requires translation based on the assessment of health department sites within the region. A copy of this correspondence will be maintained with the written annual Title VI assessment report and plan. Central Office staff will assure that statewide written

materials are translated and made available to the regions. Regions will be responsible for assuring translation of any region or county-specific form and information received in non-English languages from a LEP patient or client.

C) Providing Notice to persons with LEP:

During the annual Title VI assessment and planning process, assurance will be made that:

- I. At a minimum, when an LEP population group comprises 5% of the patient population or numbers 1,000, whichever is less, the clinic will prominently display notice in the appropriate language of the right to free interpreter services and how to request language assistance services.
2. Multilingual notices posted on TDH's program websites will provide LEP persons with advance notice of the availability of free interpreters and thus reduce the frequency in which patients and clients arrange for family and friends to accompany them to visits to provide interpreter services.
3. Language identification cards, or "I Speak Cards", are the mechanism in place for LEP persons to identify language needs.

3. Training of Staff

Regional Directors are responsible for assuring that all existing and new employees understand and abide by TDH Title VI policy and procedures. At the conclusion of the annual Title VI LEP assessment and planning process, a staff meeting should be held at each clinic site to review assessment results and the plan for meeting the needs of the LEP population. Documentation of the discussion and meeting attendees should be included as an attachment to the plan.

4. Access to Telephone Voice Mail Menus

Voice mail menus on customer service lines should be in commonly encountered languages and, at a minimum, in English and Spanish. Voice mail menus may also provide information about available language assistance services and how to get them.

5. Monitoring

Quality Management guidelines will be developed in order to continuously monitor the effectiveness of the language assistance program in all counties. Additionally, each region will assess changes in demographics, services, and other needs that may require re-evaluation of this policy and its procedures.

Reference Documents

- DOJ Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons [67 FR No.117, 41455 - 41472] at <https://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>
- HHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (68 FR

No. 153, 47311-47323 Friday, August 8, 2003] at <https://www.gpo.gov/fdsys/pkg/FR-2003-08-08/html/03-20179.htm>

- USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency f79 FR No. 229, 70771 - 70783, -Friday, November 28, 2014 at <https://www.gpo.gov/fdsys/pkg/FR-2014-11-28/pdf/2014-27960.pdf>
- State Guidance: "Tennessee State Agencies and Title VI of the Civil Rights Act of 1964"

Office of Primary Responsibility

Assistant Commissioner, Community Health Services, (615) 253-3407; with support consultation as needed from the TOH Civil Rights Compliance Officer, (615) 741-9421.