

Interpreters and Auxiliary Aids

Question

Are healthcare practices required to accept patients who need interpreters or auxiliary aids? Are practices obligated to provide these services, and may they bill patients for the associated costs?

Answer

Deciding whether to provide clinical care — for either a prospective or current patient — should *never* be made on the basis of the patient’s disability or limited English proficiency (LEP).

Physicians, hospitals, healthcare facilities, and other healthcare providers who receive federal financial assistance or funding generally are responsible for providing language assistance or other service accommodations at no cost to patients as specified in Section 1557 of the Affordable Care Act (ACA), “Nondiscrimination in Health Programs and Activities.”¹

The latest Section 1557 Final Rule, which went into effect July 5, 2024, also requires covered entities (CEs) to provide a notice of nondiscrimination and a notice of the availability of language-assistance services and auxiliary aids (as well as how patients can access those services).² CEs must comply with “§ 92.10 Notice of Nondiscrimination” within 120 days of the Final Rule effective date, and they must comply with “§ 92.11 Notice of Availability of Language Assistance Services and Auxiliary Aids and Services” within 1 year of the Final Rule effective date.³

The complexity of the communication and the patient’s accommodation choice are primary considerations when selecting an auxiliary aid or language-assistance service. The healthcare provider’s predominant goal should be to facilitate effective communication and avoid misunderstandings that could result in poor outcomes, such as medication errors, delayed diagnoses, or confusion about care plans.

Ask the patient — either through a qualified interpreter or through the use of an assistive device — “What is the best way for us to talk about your health problem?” (Note: [45 CFR § 92.201 \(c\)\(3\)](#) requires a human translator to review machine translation under certain circumstances.)

Some risk strategies to assess whether patients need interpreters or auxiliary aids and to ensure consistent practice include:

- Conducting a four-factor LEP analysis that considers the following:
 - The number or proportion of LEP people eligible to be served or likely to be encountered by the program or grantee
 - The frequency with which LEP individuals come in contact with the program
 - The nature and importance of the program, activity, or service provided by the program to people’s lives
 - The resources available to the grantee/recipient and costs⁴
- Developing a written policy on auxiliary aids and language-assistance services for patient who have disabilities or LEP. The policy should outline a process for (a) identifying and assessing need, (b) notifying patients about the availability of services (in compliance with Section 1557 of the ACA), and (c) providing auxiliary aids and services.⁵
- Periodically training staff regarding the written policy on auxiliary aids and language-assistance services as well as compliance with federal and state laws. Document training in each staff member’s employment file.
- Documenting in the health record (a) identification and assessment of need, and (b) each time an interpreter or assistive device was used (including the name and phone number of the interpreter or the type of device).

Resources

- [Agency for Healthcare Research and Quality: Health Literacy Universal Precautions Toolkit, 3rd Edition: Address Language Differences: Tool #9](#)
- [AMA Journal of Ethics: Language and Hierarchy in Medicine](#)

- [MedPro Group: Risk Tips: Communicating Effectively With Patients Who Have Limited English Proficiency](#)
- [MedPro Group: Risk Tips: Working With Medical Interpreters](#)
- [National Academy of Medicine: Language, Interpretation, and Translation: A Clarification and Reference Checklist in Service of Health Literacy and Cultural Respect](#)
- [U.S. Department of Health and Human Services, Office for Civil Rights: Example of a Policy and Procedure for Providing Auxiliary Aids for Persons with Disabilities](#)
- [U.S. Department of Health and Human Services, Office for Civil Rights: Limited English Proficiency](#)
- [U.S. Department of Health and Human Services, Office for Civil Rights: Limited English Proficiency \(LEP\) Resources for Effective Communication](#)

Endnotes

¹ 42 U.S.C. § 18116

² 89 *Fed. Reg.* 37522- 37703 (May 6, 2024), www.federalregister.gov/documents/2024/05/06/2024-08711/nondiscrimination-in-health-programs-and-activities; U.S. Department of Health and Human Services. (2024, April 26). *HHS issues new rule to strengthen nondiscrimination protections and advance civil rights in health care*. Retrieved from www.hhs.gov/about/news/2024/04/26/hhs-issues-new-rule-strengthen-nondiscrimination-protections-advance-civil-rights-health-care.html; Dawson, L, Sobel, L., Pestaina, K., Kates, J., Artiga, S., & Burns A. (2024, May 15). The Biden Administration's Final Rule on Section 1557 non-discrimination regulations under the ACA. Kaiser Family Foundation. Retrieved from www.kff.org/affordable-care-act/issue-brief/the-biden-administrations-final-rule-on-section-1557-non-discrimination-regulations-under-the-aca/

³ U.S. Department of Health and Human Services. (2024, May 20 [last reviewed]). *Section 1557 Final Rule: Frequently asked questions*. Retrieved from www.hhs.gov/civil-rights/for-individuals/section-1557/faqs/index.html

⁴ U.S. Department of Health and Human Services, Office for Civil Rights. (2006, October 4 [last revised]). *Guidance to federal financial assistance recipients regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*. Retrieved from www.hhs.gov/sites/default/files/ocr/civilrights/resources/specialtopics/lep/lepguidance.pdf

⁵ U.S. Department of Health and Human Services, Office for Civil Rights. (2023, December 13 [last reviewed]). *Example of a policy and procedure for providing auxiliary aids for persons with disabilities*. Retrieved from www.hhs.gov/civil-rights/for-providers/clearance-medicare-providers/auxiliary-aids-persons-disabilities/index.html

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