

Providing Effective Communication and Language Assistance



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- This presentation is intended as training and technical assistance for Marketplace Assisters (i.e. Navigator grantees, Certified Application Counselors (CACs) and other assisters).
- This presentation is not a legal document.
 - The slides summarize complex statutes and regulations and do not create any rights or obligations.
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 - Members of the press should contact the CMS Media Relations Group at press@cms.hhs.gov.

Overview

- Overview of Non-Discrimination Laws
- Understanding the Diversity of Consumer Groups
- Communicating Effectively with Limited English Proficiency (LEP) Consumers



Overview of Non-Discrimination Laws Protecting Major Consumer Groups

- Section 1557 of the Patient Protection and Affordable Care Act (PPACA)
- Title VI of the Civil Rights Act of 1964
- Title VII of the Civil Rights Act of 1964
- The Americans with Disabilities Act of 1990
- The Age Discrimination Act of 1975
- Section 504 of the Rehabilitation Act of 1973
- Title IX of the Education Amendments of 1972
- CMS regulations at 45 CFR 155.215(c)

Understanding the Diversity of Some Categories of Consumer Groups

The Major Consumer Groups

- Racial and Ethnic Groups
 - Black, not of Hispanic origin
 - Hispanic
 - Asian
 - Native Hawaiian or Other Pacific Islander
 - American Indian or Alaska Native
 - White, not of Hispanic Origin
- Sexual Orientation and Gender Identity
- Consumers with Disabilities
- Religious Consumers
- Older Consumers



Communicating Effectively with LEP Consumers

- “Linguistically Appropriate” communication:
 - Assistors must provide free written translations or oral interpretation services if necessary or upon request [45 CFR 155.215 (c)(3)] for those consumers with Limited English Proficiency (LEP), certain racial or ethnic communities, immigrants, and people who communicate with American Sign Language.
 - Follow the Culturally and Linguistically Appropriate Services (CLAS) standards.
 - Family or friends acting as oral interpreters can satisfy the requirement to provide linguistically appropriate services in certain circumstances.

Communicating Effectively with LEP Consumers (Cont.)



For additional resources on CLAS standards, visit:
<https://www.thinkculturalhealth.hhs.gov/resources/library>.

Communicating Effectively with LEP Consumers (Cont.)

Steps consistent with National CLAS standards:

1. Collect and maintain updated information.
2. Provide oral and written notice to consumers with LEP in their preferred language informing them of their right to receive language assistance services and how to get them.
3. Provide consumers with information and assistance in their preferred language at no cost.



Communicating Effectively with LEP Consumers (Cont.)



A recipient of Federal financial assistance (FFA) that fails to provide language assistance services to LEP customers might be violating federal laws that prohibit national origin discrimination.

Communicating Effectively with LEP Consumers (Cont.)

Conduct an LEP assessment.

- Consider:
 - Laws and regulations.
 - Consumers with LEP in your service area.
 - Projected frequency of consumers with LEP that contact your program.
 - The nature and importance of your program.
 - Costs and resources.



Communicating Effectively with LEP Consumers (Cont.)

- Create an LEP plan:
 - Identify LEP consumers who need language assistance.
 - Determine how you'll provide language assistance.
 - Train staff.
 - Inform consumers with LEP of language assistance.
 - Monitor and update the LEP plan.



Helpful Tips for Implementing LEP Services



- ✓ Apply an “LEP lens” in decision making before beginning any action.
- ✓ Assess consumers with LEP through United States census and community data sources.
- ✓ Create a one-page document for each commonly used language.
- ✓ Tell consumers about laws and policies that protect them against unfair treatment.
- ✓ Engage local community-based groups.
- ✓ Verify translations with Federally-facilitated Marketplace (FFM) resources such as HealthCare.gov or CuidadoDeSalud.gov.

Centers for Medicare and Medicaid Services (CMS) CLAS Standards

Helpful Tips for Implementing CMS CLAS Standards

- ✓ Involve community members as you develop materials that meet CMS CLAS standards.
- ✓ Use newsletters, ethnic media outlets, the Internet, and other ways to reach your community.
- ✓ Consider the best arrangement for your organization to provide oral interpretation and written translation services.
- ✓ Create a centralized web page or resource for the organization's staff that contains everything they may need to know about serving consumers with LEP.
- ✓ Avoid making assumptions about a consumer's sexual orientation based on their outward appearance.



Centers for Medicare and Medicaid Services (CMS) CLAS Standards (Cont.)

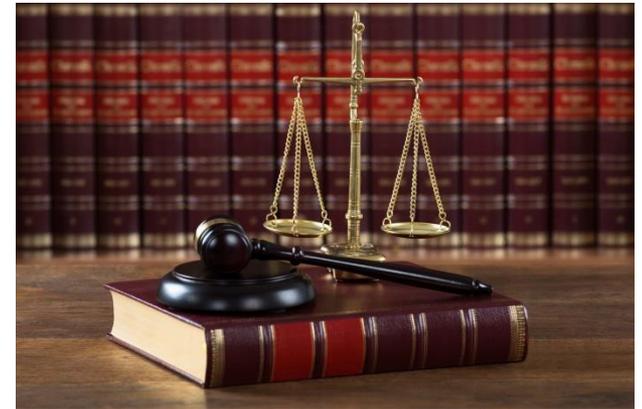
Helpful Tips for Implementing CMS CLAS Standards (Cont.):

- ✓ Ask gender-neutral questions.
- ✓ Create audio or video translations.
- ✓ Provide translated materials in simple, understandable language at an appropriate literacy level, preferably at the fourth-grade level.
- ✓ Include diverse images and culturally sensitive language.
- ✓ Collect surveys and/or informal feedback.



Preventing and Remediating Discrimination

- Identify and support staff with expertise.
- Identify an employee to oversee organizational efforts to promote diversity and provide non-discriminatory assistance to consumers.
- Develop clear mechanisms for consumers to report discrimination.
- Explain to consumers how to file a complaint with the [Office for Civil Rights \(OCR\)](#).



Preventing and Remediating Discrimination (Cont.)

- Examples of discrimination, if based on a protected class:
 - Refusing to provide assistance.
 - Refusing to provide services.
 - Creating a hostile environment.
 - Refusing to provide appropriate language assistance.
 - Neglecting to tailor and conduct appropriate outreach.
 - Requesting immigration-related documents that aren't required.



Preventing and Remediating Discrimination (Cont.)

- What you should know to avoid stereotypes:
 - Personal story
 - Consumers may have their own personal stories, beliefs, ways to communicate, and health histories.
 - Education and income
 - Consumers may have different incomes and education levels, and these backgrounds can affect their beliefs and opinions about health and coverage.
 - Country or region
 - Consumers from the same country, even from the same region, may differ greatly in their traditions, customs, and opinions about health and coverage.



Key Points

1. Understanding the diversity of consumer groups
 - You are not permitted to discriminate against consumers because of their race, color, national origin, disability, age, sex, religion, or sexual orientation.
 - All consumers are different and you should avoid stereotyping.



Key Points (Cont.)

2. Communicating effectively with LEP consumers

- Federal laws and regulations protect consumers with LEP.
- CMS regulations implementing CLAS standards were created to make programs more responsive to the diverse needs of consumers.
- Conduct an individualized LEP assessment of your program.



Resources

- Training materials for Navigators and other assisters:
<https://marketplace.cms.gov/technical-assistance-resources/training-materials/training.html>
- Assister webinars:
<https://marketplace.cms.gov/technical-assistance-resources/assister-webinars.html>
- If you have topical questions about this presentation:
 - Navigators - please contact your Project Officer directly.
 - CACs - please email the CAC Inbox at CACquestions@cms.hhs.gov.

