

# Providing Effective Communication and Language Assistance



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# Overview of Presentation

- Overview of Non-Discrimination Laws
- Understanding Consumer Diversity in the Health Insurance Marketplace
- Communicating Effectively with LEP Consumers
- Conducting a Language Access Assessment
- Implementing a Language Access Plan
- Preventing and Remediating Discrimination
- Key Points
- Resources



# Overview of Non-Discrimination Laws and Regulations

- Section 1557 of the Patient Protection and Affordable Care Act (PPACA) (Section 1557)
- Title VI of the Civil Rights Act of 1964 (Title VI)
- The Americans with Disabilities Act of 1990 (ADA)
- The Age Discrimination Act of 1975 (Age Act)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- Title IX of the Education Amendments of 1972 (Title IX)
- CMS regulations at 45 CFR 155.120(c) and 45 CFR 155.215(c)-(d)



# Understanding Cultural and Linguistic Diversity in the Health Insurance Marketplace

- Racial and ethnic minorities:
  - Black or African American
  - Hispanic, Latino, or Spanish origin
  - Asian
  - Native Hawaiian or other Pacific Islander
  - American Indian or Alaska Native
- Members of the lesbian, gay, bisexual, transgender, and queer (LGBTQ+) community
- Individuals with disabilities, including people who communicate through American Sign Language (ASL)
- People who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English, referred to as consumers with Limited English Proficiency (LEP)
- People with different socioeconomic statuses
- People with different religious beliefs and practices
- Older adults



# Communicating Effectively with Consumers with LEP

“Linguistically appropriate” communication:

- Navigators must provide free written translations or oral interpretation services to consumers with LEP in their preferred language if necessary or upon request [45 CFR 155.215(c)(3)].
- CACs are encouraged to provide translation and other language services. If they cannot assist a consumer with LEP, CACs are expected to refer the consumer to a local Navigator or the Marketplace Call Center.
- Follow the Culturally and Linguistically Appropriate Services (CLAS) standards set forth in Centers for Medicare & Medicaid Services (CMS) regulations [45 CFR 155.215(c)].
- Family or friends of a consumer acting as oral interpreters can satisfy the requirement to provide linguistically appropriate services in certain circumstances.

# Communicating Effectively with Consumers with LEP (Cont.)

For additional resources on CLAS standards, visit:

- [Think Cultural Health](#)
- [A Practical Guide to Implementing the National CLAS Standards](#)



# Communicating Effectively with Consumers with LEP (Cont.)



To be culturally and linguistically competent, assisters should:

- Identify, understand, and respect differences in consumers' cultural beliefs, behaviors, and needs.
- Respond appropriately to consumers based on their culture and language needs, which may include making referrals or asking for help (e.g., getting interpretation and translation services).
- Acknowledge, respect, and accept cultural differences among consumers.



# Communicating Effectively with Consumers with LEP (Cont.)

Federal civil rights laws that prohibit discrimination on the basis of race, color, and national origin require recipients of Federal financial assistance (FFA) to take reasonable steps to ensure meaningful access to their programs and activities by individuals with LEP. This may require provision of language assistance services to LEP customers, including interpreters or written translation. These laws include Section 1557 and Title VI.



# Effective Communication with Individuals with Disabilities

Recipients of FFA also must comply with federal disability rights laws that require entities to take appropriate steps to ensure effective communication with individuals with disabilities. This may require provision of appropriate auxiliary aids and services, including interpreters and information in alternate formats. These laws include Section 1557, Section 504, and the ADA.



# Conducting a Language Access Assessment

When conducting a language access assessment, consider:

- Laws and regulations.
- The number or proportion of 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.



# Implementing a Language Access Plan

- When creating a language access 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.
- For additional resources on implementing your language access plan, visit the CMS Office of Minority Health [Guide to Developing a Language Access 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 Health Insurance Marketplace resources such as [HealthCare.gov](https://www.healthcare.gov) or [CuidadoDeSalud.gov](https://www.CuidadoDeSalud.gov).

# 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.

# CMS CLAS Standards (Cont.)

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

- 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 in outreach, education, and marketing materials.
- 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 nondiscriminatory assistance to consumers.
- Develop clear mechanisms for consumers to report discrimination.
- Explain to consumers how to file a discrimination 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 income 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 (including sexual orientation and gender identity), or religion.
- 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: [Marketplace.cms.gov/technical-assistance-resources/training-materials/training](https://marketplace.cms.gov/technical-assistance-resources/training-materials/training)
- Assister webinars: [Marketplace.cms.gov/assister-webinars](https://marketplace.cms.gov/assister-webinars)
- [Serving Special Populations: Consumers with Limited English Proficiency Fact Sheet](#)
- [Assister Tip Sheet: Dos and Don'ts for Providing Non-discriminatory, Culturally and Linguistically Appropriate Services, and Services Accessible for Consumers with Disabilities in Federally-facilitated and State Partnership Marketplaces](#)
- [Providing Language Services to Diverse Populations: Lessons from the Field](#)
- [Health Insurance Rights & Protections: Summary of Benefits and Coverage](#)
- [Getting Help in a Language Other than English](#)
- [Marketplace Resources in Other Languages](#)
- [HHS Office of Minority Health Cultural and Linguistic Competency Resources](#)
- [HHS Office for Civil Rights Limited English Proficiency Resources](#)

# Resources (Cont.)

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](mailto:CACQuestions@cms.hhs.gov).

