HEALTHCARE TRANSLATION & LOCALIZATION 101

WHY, WHEN, AND HOW TO PROVIDE

The material herein is educational and informational only. No legal advice is provided.

Like Title VI before it, Section 1557 of the Affordable Care Act expanded language access requirements for hospitals, including a mandate that certain documents must be translated. This whitepaper contains guidance from CyraCom that may help healthcare providers understand some federal guidelines, as well as help them determine what and how to translate.

CYRACOM Language Solutions

THE CASE FOR TRANSLATION. WHY PROVIDE?

Healthcare Providers Must Provide Translation By Law

Section 1557 of the Affordable Care Act prohibits discrimination in healthcare or health coverage on the basis of race, color, or national origin (including immigration status and English language proficiency). This mandate applies to "every health program or activity, any part of which receives Federal financial assistance

Translation, Localization, and Cost Savings

According to a study by Health & Human Services (HHS), 27% of Medicare providers polled said cost was an obstacle to providing translated documents.[1]

In fact, translation may save both time and money for healthcare providers. Translation is a usually one-time fee for unlimited access to a document, so unlike paying for each spoken interpretation session, once an often-used document is translated, the provider does not have to pay additional funds for each use.

$17B
ANNUALLY

The Center for Medicare & Medicaid Services (CMS) estimates that avoidable readmissions cost Medicare $17 billion a year because patients do not:

- Understand their diagnosis.
- Know which medications to take and when.
- Receive important information or test results.
- Schedule a follow-up appointment with their doctor.
- Get adequate care at home.

Translation can mitigate many of these factors, contributing directly to patient readmission rates, patient satisfaction, and cost savings.

Translation May lower Risks to Patients

According to the HHS study, 73% of Medicare providers reported benefits to providing language access services. "The four most frequently reported benefits were: improved communication, improved adherence to treatment regimen, improved diagnosis and treatment, and fewer complaints."[2]

Improving diagnosis and improved adherence to treatment help hospitals lower patient readmissions rates.

Translation and Patient Satisfaction

If patients know they can communicate in their preferred language—including reading and filling out documents in that language—they may be more satisfied with their overall encounter. HCAHPS surveys ask patients several questions surrounding clear communication. Providing translation may improve a hospital's HCAHPS Star Rating.

HCAHPS
Hospital Consumer Assessment of Healthcare Providers and Systems

A healthcare center that provides consistent and quality interpretation and translation services may see an increase in the number of Limited English Proficient (LEP) patients who come for treatment. According to the International Customer Management Institute, 58% of customer service leaders believe providing multilingual support increases brand loyalty.

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DETERMINING WHAT TO TRANSLATE FACTORS TO CONSIDER

When and how should document translation be utilized? The Department of Justice (DOJ) provided a Four Factor Analysis for determining when documents need to be translated into what languages and who is able to perform the translation.

The Department of Justice's Four Factor Analysis

1 The number or proportion of Limited English Proficient (LEP) persons eligible to be served or likely to be encountered by the program or grantee;

Determine language needs based on the demographics of your hospital's service area, not the existing patient makeup of the hospital.

2 The frequency with which LEP individuals come in contact with the program;

Look at how often LEP patients actually visit the hospital.

3 The nature and importance of the program, activity, or service provided by the program to people's lives;

The Office of Civil Rights explains, "A recipient needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Thus, the recipient should consider the importance and urgency of its program, activity, or service."

Translating a surgery consent form may be more critical than translating a general medical brochure. The difference and importance between vital and non-vital documents is discussed in the next section.

4 The resources available to the grantee/ recipient and costs.

As the ADA states, "Covered entities are required to provide aids and services unless doing so would result in an "undue burden," which is defined as significant difficulty or expense."

Furthermore, "In determining whether a particular aid or service would result in an undue burden, a Title III entity should take into consideration the nature and cost of the aid or service relative to their size, overall financial resources, and overall expenses. In general, a business or nonprofit with greater resources is expected to do more to ensure effective communication than one with fewer resources. If the entity has a parent company, the administrative and financial relationship, as well as the size, resources, and expenses of the parent company, would also be considered." [3]

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It may be difficult to determine which documents outside of patient forms, such as community outreach materials, are vital. If a hospital publishes a brochure that says, "Doctor X won an award," this information might boost the hospital's reputation and encourage patients to come to that facility. However, the information doesn't necessarily *need* to be translated as not knowing this information probably will not have a negative effect on potential patients.

On the other hand, if a hospital publishes a brochure on the warning signs of HPV, that information could impact a patient's decision to come to the hospital and to be treated. This decision could prevent transmission of the virus to more people. When deciding what documents to translate, ask, "Would not knowing this affect all possible patients?" If the answer is yes, the document should be translated.

Into What Languages do Documents Need to Be Translated? – OCR's 5% Rule

What languages need to be translated correspond with DOJ Factors 1 & 2, "The number or proportion of LEP persons eligible to be served or likely to be encountered," and "the frequency with which LEP individuals come in contact with the program." Remember to take into account both the number of LEPs in the surrounding area and the actual number of LEPs in the hospital.

According to the Office of Civil Rights' Safe Harbor rules, written translation of vital documents are necessary if an LEP population reaches five percent of the surrounding community, or if the number of LEPs reaches 1,000 people or more – whichever is less.

With the implementation of Section 1557 providers must also, "Post Notices of Nondiscrimination and signage explaining the availability of language services in the state's top 15 non-English languages." See the section "Tips for Top 15 Languages" below to learn more.

To learn more about Section 508 – large print, braille, and other alternative formats – email your questions to info@cyracom.com

CyraCom provides clients with customizable language posters to meet Section 1557's notification requirements - available in more than one hundred languages based on the provider's individual needs.

TIPS FOR TOP 15 LANGUAGES

- The Department of Health and Human Services and the Office of Civil Rights have posted the top 15 non-English languages for each state: http://www.hhs.gov/sites/default/files/resources-for-covered-entities-top-15-languages-list.pdf
- The Department of Health and Human Services also says, "… covered entities may refer to sources other than OCR's list if covered entities have a reasonable basis for relying on such sources when considering characteristics such as the currency, reliability, and stability of the data. Covered entities may use such sources even if the list of languages produced from those sources is different from OCR's list or has variations in the relative rank of the languages."[4] This is especially useful when determining the top 15 languages for the area around the hospital.
- If an entity's service area covers multiple states, the top 15 languages spoken by LEP individuals may be determined by aggregating the 15 languages spoken by all LEP individuals among the total population of the relevant states.
- The Joint Commission recommends tracking language preference within the hospital in order to best know what languages need to be served.[5]

CLAS Standards Relation to Translation

Analysis and implementation of the four CLAS standards—the Office of Minority Health's (OMH) Culturally and Linguistically Appropriate Services in Health Care (CLAS) standards—help healthcare providers be compliant with the law. According to the HHS study, "Sixty-nine percent of [Medicare] providers conducted all four factors of the recommended assessment," but "…only 33 percent offered services consistent with all four CLAS standards on language access services."[6]

C·L·A·S
Culturally & Linguistically Appropriate Services

In 2001, OMH created the CLAS standards to provide consistent and comprehensive guidance to promote cultural and linguistic competence in health care. As with the Four Factor test, the CLAS standards are not mandatory but are recommended for compliance. Out of 14 CLAS standards, four apply directly to language access:

STANDARD 4

Health care organizations must offer and provide language assistance services, including bilingual staff and interpreter services, at no cost to each patient/consumer with limited English proficiency at all points of contact, in a timely manner during all hours of operation.

STANDARD 5

Health care organizations must make available easily understood patient-related materials and post signage in the languages of the commonly encountered groups and/or groups represented in the service area

CyraCom provides desktop and wall-mounted language posters for easy notification.

STANDARD 6

Health care organizations must provide to patients/consumers in their preferred language both verbal offers and written notices informing them of their right to receive language assistance services.

STANDARD 7

Health care organizations must assure the competence of language assistance provided to limited English proficient patients/consumers... Family and friends should not be used to provide [translation] services (except on request by the patient/consumer).

What Documents Need to be Translated? – Vital vs. Non-Vital Documents

The third factor of the DOJ Four Factor Analysis addresses which documents need to be translated. It recommends assessing the importance of the program or document and the impact it could have on people's lives, including the consequences if it is not provided accurately or in a timely manner. A document may contain both vital and non-vital information.

VITAL WRITTEN MATERIALS INCLUDE, BUT ARE NOT LIMITED TO:

- Consent and complaint forms.
- Intake forms with the potential, for important consequences.
- Written notices of eligibility criteria, rights, denial, loss, or decreases in benefits or services, actions affecting parental custody or child support, and other hearings.
- Notices advising LEP persons of free language assistance.
- Written tests that do not assess English language competency, but test competency for a particular license, job, or skill for which knowing English is not required.
- Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

NON-VITAL WRITTEN MATERIALS COULD INCLUDE:

- Hospital menus.
- Third-party documents, forms, or pamphlets distributed by a recipient as a public service.
- For a non-governmental recipient, government documents and forms.
- Large documents such as enrollment handbooks (although vital information contained in large documents may need to be translated).
- General information about the program intended for informational purposes only.

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Who Is Legally Allowed to Translate Documents? – Qualified Translators

Section 1557 requires translators to be "qualified" instead of "competent." A qualified translator is someone who translates:

Impartially **Accurately** **Effectively**

The translators must also:

- Adhere to generally accepted translator ethical principles.
- Be proficient in both English and at least one other written non-English language.
- Be proficient in any necessary specialized vocabulary, terminology and phraseology.

The Department of Health and Human Services said, "…using qualified translators… ensure[s] that documents need not be "fixed" later and that inaccurate [translations] do not cause delay or other costs."[7]

HOW TO IMPLEMENT LANGUAGE SERVICES
CREATING A LANGUAGE IMPLEMENTATION PLAN (LIP)

Once a healthcare provider has determined what documents need to be translated into what languages and who are going to use the translation services, a Language Implementation Plan (LIP) is highly recommended and may be legally required. LIPs keep all pertinent information relating to language services in one, easy-to-access document.

Who legally needs an LIP? If an organization receives federal financial assistance from the US Department of Health and Human Services (HHS) directly or indirectly through another entity, that organization needs an LIP. "HHS recipients include all health care providers that receive federal funds (for example, Medicare, Medicaid, and the State Children's Health Insurance Program, or SCHIP), including hospitals, physicians' offices, managed care plans, community clinics, nursing homes, pharmacies, and state agencies."[8]

Having a language implementation plan:

- Lays out policies and procedures for language services in one place.
- Provides employees with quick access to information, including what provider to call when language services are needed.
- Identifies the LEP population of the surrounding area.
- Shows the government that an organization is trying to comply with regulations, which is always favorable.

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KEEP THE IMPLEMENTATION PLAN SIMPLE

Language implementation plans (LIP) should be brief and easy to understand. The HHS website has five recommendations for creating an LIP in the form of questions:

Identify LEP Individuals Who Need Language Assistance

- Who are the members of the population being served?

Create Language Assistance Measures

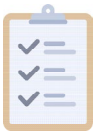
- What services will be provided and how will LEP persons be supported at each area of interaction?

Train Staff

- How can the organization prepare staff for LEP situations?

Provide Notice to LEP Persons

- How will LEP persons receive notices of services?



Monitor and Update the LIP

- How will the LIP be monitored and when will it be updated?

For more detailed information on creating a language implementation plan visit:
http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/index.html.

CONCLUSION

The HHS survey found that, "Forty-five percent of providers reported that it would be useful to have additional assistance in overcoming obstacles and implementing language access services… Specifically, information requests included such things as already-translated documents or the names of organizations that provide cost-effective translation and interpretation."[9]

When it comes to language services—from providing high quality translation to knowing the standards for compliance—CyraCom has its clients covered. Our process begins with a readability assessment and scaling-down of the English text to a fifth-grade level prior to translating, improving comprehension for patients of all education levels. CyraCom's translation process is certified by the International Standards Organization (ISO) 17100:2015.

Interested in learning more about CyraCom's services? Go to www.translate.cyracom.com for more information.

END NOTES

1. https://oig.hhs.gov/oei/reports/oei-05-10-00050.pdf
2. Ibid.
3. https://www.ada.gov/effective-comm.htm
4. http://www.hhs.gov/civil-rights/for-individuals/section-1557/1557faqs/top15-languages/index.html
5. Joint Commission Road Map, CyraCom Summit 2015.
6. https://oig.hhs.gov/oei/reports/oei-05-10-00050.pdf
7. https://www.dol.gov/oasam/regs/fedreg/notices/2003013125.htm
8. http://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-VI/index.html
9. https://oig.hhs.gov/oei/reports/oei-05-10-00050.pdf