

Frequently Asked Questions Regarding Providing Interpreter Services to Individuals who are Deaf, Deaf-Blind, Hard of Hearing or Individuals with Limited English Proficiency

The information was obtained from Oregon state statutes and administrative rules, US Health and Human Services website, LEP.gov website and the ADA.gov website. Links to those resources are below.

1. When must a provider make qualified spoken language interpreter services available for a patient?

[Title VI of the Civil Rights Act](#) (Title VI) and [Section 1557 of the Affordable Care Act](#) and the corresponding Code of Federal Regulation (CFR) at [45 CFR Part 92](#) (Section 1557) require that any entity who receives federal funding, such as Medicaid dollars, must provide “meaningful access” to each individual with limited English proficiency (LEP) who is likely to be encountered or eligible to be served in its health programs or activities.

The size of the provider or the type of provider does not matter. This applies to all entities that accept Medicaid dollars, for example: pharmacies, hospitals, primary care offices, occupational therapist, dentists, mental health providers, labs, community based organizations, etc.

Given the nature of medical appointments and the importance of communication between a patient and a provider, interpreter services for LEP individuals should always be available in order to ensure meaningful access. Interpreter services must be free, timely and protect the privacy and independence of the LEP individual. The interpreter must be a qualified healthcare interpreter.

[The Americans with Disabilities Act and Amendments Act of 2008](#) (ADA) and Section 1557 require that any provider who received federal funding, such as Medicaid dollars, take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others in health programs and activities.

Under [Oregon Administrative Rule 410-141-3220\(9\)](#) Coordinated Care Organizations (CCOs) are required to ensure the provision of free certified or qualified interpretation services to individuals with a disability and individuals with LEP.

2. What if the patient is deaf or hard of hearing and require sign language interpreter or some other accommodation to communicate with the provider?

The ADA requires that a provider pay for the cost of interpreter services as an accommodation for an individual with a disability. Providers have a duty under the ADA to provide effective communication using auxiliary aids and services that ensure communication which is as effective as communications with those who are not deaf or hard of hearing.

3. Who is an individual with limited English proficiency (LEP)?

An individual with limited English proficiency means an individual whose primary spoken language for communication is not English and who has a limited ability to read, write, speak, or understand English.

4. What is a qualified interpreter?

Section 1557 states that any provider who receives federal funding, such as Medicaid dollars must provide qualified interpreter services to individuals with a disability and individuals who have LEP.

A qualified interpreter for an individual with a disability means an interpreter who via a remote interpreting service or an onsite appearance adheres to generally accepted interpreter ethics principles, including client confidentiality and is able to interpret effectively, accurately and impartially both receptively and expressively using any necessary specialized vocabulary terminology and phraseology.

A qualified spoken language interpreter for an individuals who is LEP means an interpreter who via a remote interpreting service or an onsite appearance adheres to generally accepted interpreter ethics principles, including client confidentiality; has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language; and is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such languages and English, using any necessary specialized vocabulary, terminology and phraseology.

Interpreters who are deemed qualified or certified by the Oregon Health Authority Health Care Interpreter Training Program (HCI) meet all of these qualifications. For a list of interpreters

who are qualified or certified in Oregon please visit [Oregon Health Authority's Office of Equity and Inclusion Health Care Interpreter Training Program](#).

5. Why does the Oregon Health Authority have certified and qualified Health Care Interpreters?

The Oregon Health Authority has two credential types, qualified and certified. The only difference between the two types is that certified interpreters are required to pass national oral and written exams. Those exams are currently available only in: Arabic, Cantonese, Korean, Mandarin, Russian, Spanish, and Vietnamese. Oregon certified and qualified Health Care Interpreters meet all of the requirements of Section 1557. For a detailed list of the Oregon Health Authority Health Care Interpreter requirements please visit the [Oregon Health Authority's Office of Equity and Inclusion Health Care Interpreter Training Program](#).

6. Can the patient use a family member or a friend as an interpreter?

No, unless the patient is told that free interpreter services are available and the patient specifically requests that an accompanying adult interpret instead of the free qualified healthcare interpreter. If this occurs, it is best practice to notate in the patient record that a qualified healthcare interpreter was offered and that the patient declined and specifically requested that the accompanying adult interpret.

Title VI and Section 1557 prohibit the use of children as interpreters or requiring that the patient bring their own interpreter unless there is an emergency involving an imminent threat to the safety or welfare of an individual or the public.

7. Can a provider use bilingual staff to provide interpretation?

Yes, but the staff member must be designated by the entity as an individual who will provide oral language or sign language assistance as part of the individual's current, assigned job responsibilities and who has demonstrated to the entity that they are: (1) proficient in speaking and understanding both spoken English and at least one other spoken language or sign language, including any necessary specialized vocabulary, terminology and phraseology and (2) is able to effectively, accurately, and impartially communicate directly with individuals who use sign language or with limited English proficiency in their primary languages.

If the staff member does not meet the above outlined criteria, for example interpretation is not a part of the employee's job duties, then the bilingual staff member can only provide

interpretation services if there is an emergency involving imminent threat to the safety or welfare of an individual or the public.

8. Where can a provider locate resources for interpreter services in Oregon?

Providers can visit the [Oregon Health Authority's Office of Equity and Inclusion Health Care Interpreter Training Program](#). Towards the center of the page there is a link to the Health Care Interpreter Registry. Some commonly used telephonic or in-person interpreter services are:

- [Language Link](#)
- [Passport to Languages](#)
- [Linguava](#)
- [Certified Languages](#)
- [Bridges to Communications](#)
- [IRCO International Language Bank](#)
- [Evergreen Interpreting](#)
- [Oregon Certified Interpreters Network](#)
- [Telelanguage](#)
- [MindLink Resources](#)

Please note that this list is not a complete list of all the possible language services that serve Oregon and it is not an endorsement of their work. Each entity must make their own determination on quality of service and ensure that the interpreters meet all state and federal requirements.

The provider is responsible for ensuring that any interpreter used is a qualified or certified interpreter.

Each provider should also develop policies and procedures for staff on how to obtain interpreter services for patients, how to notate a patient's language preferences, and ensure all staff are trained on how to provide interpreter services.

9. Do pharmacies have to provide interpreter services?

Yes, under Oregon Administrative Rule ([OAR](#)) [855-019-0230](#), a pharmacist must orally counsel the patient or patient's representative on the use of a drug or device. A pharmacist may provide counseling in a form other than oral counseling when, in the pharmacist's professional judgment, another form of counseling will be more effective. Regardless of the form of counseling utilized, the pharmacist must provide that degree of counseling that is "reasonable

and necessary under the circumstance to promote safe and effective use or administration of the drug or device, and to facilitate an appropriate therapeutic outcome for that patient.” [OAR 855-019-0230\(1\)\(f\)](#).

The above rules should be read in association with the provisions of Title VI and Section 1557 to ensure that LEP individuals receive sufficient counseling related to prescription medications.

10. Are there any tools for patients to inform providers about their language needs?

Yes, preferred language cards are a tool for patients to communicate their language needs. [Preferred Language cards are available in 10 languages](#).

11. Where can I find the rules and regulations for Title VI and Section 1557 of the ACA?

- Section 1557 Regulations and Preamble are located in [45 Code of Federal Regulation Part 92](#)
- There is also a clearinghouse for LEP materials at www.LEP.gov
- Oregon state law also requires the use of interpreters. This statute can be found at [ORS 413.550 and ORS 413.552](#).
- [U.S. Health and Human Services Office of Civil Rights](#) (OCR) regulates and investigates complaints against providers who fail to provide interpreter services.
- For Coordinated Care Organizations the regulations for language access are located in [Chapter 410 Division 141 of the Oregon Administrative Rules](#).

12. What if a patient requests but does not receive an interpreter?

A patient has a right to file a complaint with the entity that denied them the interpreter service. Entities with 15 or more employees must have a grievance process. If the entity does not have a complaint process or the patient does not want to use the entity’s process they can file a complaint with:

- [Oregon Health Authority’s Office of Equity and Inclusion](#)
- [U.S. Health and Human Services Office of Civil Rights](#)
- [Oregon Bureau Of Labor and Industries](#)

Section 1557 grants individuals compensatory damages for violations of Section 1557. This is a departure from Title VI of the Civil Rights Act (the previous law on language access), which allowed fines and monetary cuts for noncompliance but did not enable individual patients to sue

for discrimination. Staff should understand the potential consequences of noncompliance and be well trained in accessing an interpreter quickly and efficiently.

13. Where Can I go for Additional Language Access Resources?

- [United States Department of Health & Human Services Guidance to Federal Financial Assistance Recipients](#)
- [Civil Rights for Providers of Health Care and Human Services](#)
- [HHS OCR link to LEP Resources and Guidance Documents](#)
- [National Origin Discrimination](#) – to assist agencies with benefit applications and other administrative procedures, to ensure they do not deter or deny eligible national origin groups from obtaining services
- Effective communication YouTube video on improving patient-provider communications: [Part 1](#) | [Part 2](#) | [Part 3](#) | [Part 4](#) - OCR and The Joint Commission project to promote language access education.
- Medical School Curriculum Facilitator's Guide and PowerPoint: “*Stopping Discrimination before it Starts: the Impact of Civil Rights Laws on Healthcare Disparities.*” (MedEdPORTAL: [Pub Id #7740](#))
- Emergency Preparedness & Response PowerPoint: [Avoiding Disasters for the “Special Needs Population” Effective planning, response, and recovery for the special needs population, consistent with Federal civil rights laws](#)
- [LEP Video on Breaking down the Language Barrier: Translating English Proficiency Policy into Practice](#)
- [American Pharmacists Association Nondiscrimination and HHS Regulations](#)
- [Language Access Assessment and Planning Tool: A guide to walk you through your office to review for access](#)

14. How can I talk to the person that developed this document?

Feel free to contact [Mavel Morales](#), Operations and Policy Analyst at the Oregon Health Authority’s Office of Equity and Inclusion. Desk: 971-673-2000.