

405 - CULTURAL COMPETENCY AND LANGUAGE ACCESS REQUIREMENTS

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I. PURPOSE

This Policy applies to ACC, ACC-RBHA, ALTCS E/PD, DCS CHP (CHP), and DES DDD (DDD) Contractors. The purpose of this Policy is to outline Contractor requirements for providing health care services in a culturally and linguistically competent manner.

[The CHP and DDD Contractors are responsible for ensuring their Subcontracted Health Plan\(s\) comply with the requirements of this Policy.¹](#)

II. DEFINITIONS

Refer to the [AHCCCS Contract and Policy ACOM and AMPM Dictionary²](#) for common terms found in this Policy

For purposes of this Policy, the following term(s) are defined as:

CULTURAL COMPETENCY

~~A set of congruent behaviors, attitudes and policies that come together in a system, agency, or among professionals to work effectively in cross-culture situations.~~

~~Competence implies having the capacity to function effectively (e.g., respect and respond) as an individual and an organization within the context of the cultural beliefs, values, behaviors, and needs (e.g., social, cultural, linguistic) presented by consumers and their communities. This includes consideration of national origin, sex, gender, gender identity, sexual orientation, and age.~~

QUALIFIED INTERPRETER

~~An interpreter who via a Video Remote Interpreting (VRI) service, over the phone, or an on-site appearance: Adheres to generally accepted interpreter ethical 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 language(s) and English, using any necessary specialized vocabulary, terminology and phraseology as specified in 45 CFR 92.4.~~

¹ Added to clarify DCS CHP and DES DDD responsibilities of oversight of their Subcontracted Health Plan(s).

² Revised to update the title.

QUALIFIED TRANSLATOR

~~A translator who adheres to generally accepted translator ethic principles, including client confidentiality; has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language; and is able to translate effectively, accurately, and impartially to and from such language(s) and English, using any necessary specialized vocabulary, terminology and phraseology as specified in 45 CFR 92.4.³~~

III. POLICY

A. TRANSLATION AND INTERPRETATION SERVICES

The Contractor shall ensure access to oral interpretation, translation, sign language, disability-related services, and provide auxiliary aids and alternative formats upon request, and at no cost to the member including translation of documents written in English into the member's preferred language. The Contractor shall provide translation and interpretation services that are accurate, timely, and that protect the privacy and independence of the individual with Limited English Proficiency (LEP).

The translation and interpretation services shall be provided by a qualified translator or interpreter, respectively:

1. The members are permitted to use an adult who is accompanying the member for LEP interpretation only in the following circumstances:
 - a. In an emergency when there is no qualified interpreter immediately available, or
 - b. When the member with LEP requests the accompanying adult to interpret or facilitate the communication.

The accompanying adult agrees to provide the communication assistance, and reliance on the accompanying adult for assistance is reasonable under the circumstances.

The members are not permitted to rely on a minor child for interpretation except in an emergency when there is no qualified interpreter or qualified translator immediately available.

2. The translations and interpretations shall be provided in the following manner:
 - a. All written materials for members shall be translated into Spanish regardless of whether or not the materials are vital. ~~In addition, w~~ The written materials that are critical to obtaining services (also known as vital materials) shall include taglines as specified in 42 CFR 438.10(d)(2) as well as⁴ be made available in the prevalent non-English language spoken for each LEP population in the Contractor's service area as specified in 42 CFR 438.10(d)(3). Oral interpretation services, as applicable, shall not substitute for written translation of vital materials, ~~and~~

³ Removed definitions as they are defined in the AHCCCS Contract and Policy Dictionary.

⁴ Updated to align with 42 CFR 438.10 and align with ACOM Policy 404, Contractor Website and Member Information.

- ~~b.~~ The Contractor shall make oral interpretation services available at no cost to the member. This applies to sign language, the use of auxiliary aids, and all non-English languages, not just those identified as prevalent.~~—~~
 - ~~c.~~ The Contractor shall also provide information on which providers speak languages other than English, including but not limited to the provision of a user friendly, searchable provider directory (including specialists for referrals) as outlined in ACOM 404, Attachment B, and
 - ~~b.d.~~ Refer to ACOM Policy 404 for additional information regarding language, readability, and oral interpretation requirements.
3. The Contractor shall provide member information materials in compliance with ACOM Policy 404.
4. The Contractor and its subcontractors shall:
- a. Utilize Arizona licensed interpreters for the deaf and the hard of hearing, and
 - b. Provide auxiliary aids or Arizona licensed interpreters that meet the needs of the member upon request. Auxiliary aids include but are not limited to:
 - i. Computer-aided transcriptions,
 - ii. Written materials,
 - iii. Assistive listening devices, or systems,
 - iv. Closed and open captioning, and
 - v. Other effective methods of making aurally delivered materials available to person with hearing loss.

The Arizona Commission for the Deaf and the Hard of Hearing provides a listing of licensed interpreters, information on auxiliary aids, and the complete rules and regulations regarding the profession of interpreters in the State of Arizona.

B. CULTURAL COMPETENCY PLAN

The Contractor shall have a comprehensive cultural competency program that is inclusive of those with LEP and diverse cultural and ethnic backgrounds, disabilities, race, color, national origin, age, and regardless of sex, gender, sexual orientation, or gender identity as specified in 42 CFR 457.1230(a), 42 CFR 457.1201(d), 42 CFR 438.206(c)(2), 42 CFR 438.3(d)(4), and 45 CFR Part 92.

The Contractor shall designate its key staff position, Cultural Competency Coordinator, to be responsible for implementation and oversight of all requirements for the Cultural Competency Program and the Cultural Competency Plan (CCP). The Contractor's CCP along with its annual assessment shall be made available to AHCCCS upon request.⁵

~~The Contractor shall have a comprehensive cultural competency program that includes measurable and sustainable goals and develop a written Cultural Competency Plan (CCP).⁶~~

⁵ Relocated language from below and added language that the annual assessment shall be made available upon request.

⁶ Moved below and revised to provide clarity of expectations.

~~The CCP shall describe how care and services will be delivered in a culturally competent manner and shall include all information specified utilizing Attachment A, which is also inclusive of the required components of the Language Access Plan. The Contractor is only required to submit Attachment A, inclusive of the Language Access Plan, if the Contractor has not obtained National Committee for Quality Assurance (NCQA) Health Equity (HE) Accreditation or should the Contractor lose its accreditation (either due to non-renewal or revocation).⁷~~

~~The Contractor shall designate its key staff, Cultural Competency Coordinator, to be responsible for implementation and oversight of all requirements for the Cultural Competency Program and the Cultural Competency Plan as specified in Contract.~~

The Contractor shall develop, implement, and maintain a comprehensive Cultural Competency Plan (CCP) that ensures and describes how care and services will be delivered in a culturally competent manner to all members, consistent with the requirements outlined in 42 CFR 440.262.⁸ The Contractor shall require its provider workforce to adhere to all cultural competency requirements as specified in this Policy. The Contractor's CCP shall also include the following but not limited to:

1. ~~A description of the m~~ The method(s) used for evaluating and trending the cultural diversity (such as languages spoken and ethnicity)⁹ of its membership to assess needs and priorities to provide culturally competent care to its membership.
2. An evaluation of its network, outreach services, and other programs to improve accessibility and quality of care for its membership.
3. ~~A description of the m~~ The method(s) used for evaluating fair health care access and addressing health disparities within the Contractor's service delivery and assigned Geographic Service Areas (GSAs)¹⁰.
4. A description of the provision and coordination needed for linguistic and disability-related services.
- 4.5. A measurable and sustainable goals for the coming year.¹¹
- 5.6. ~~A description of e~~ Education and training the Contractor utilizes for its staff that includes, but not limited to:¹²
 - a. ~~The m~~ Methods used to train its staff to ensure that services are provided in a culturally competent manner to members and their families of all cultures,
 - b. ~~The training shall be e~~ Customized to fit the needs of its staff based on the nature of the contacts interactions with providers and/or members, and
 - c. ~~The~~ Cultural competency training for all its staff during new employee orientation and annually thereafter, and

⁷ Removed all references to Attachment A as the Attachment is being reserved; all references to Attachment A has been removed throughout the policy.

⁸ Revised to ensure a Cultural Competency Plan (CCP) is in place.

⁹ Revised to ensure methods include languages spoken and ethnicity.

¹⁰ Revised to include Geographic Service Area (GSA) to standard language utilized throughout contracts and policies.

¹¹ Moved from below for better flow and to provide clarity.

¹² Revised to include Contractors' staff education and training program.

7. The Contractor’s education and training program shall be designed with methods to make providers and subcontractors with direct member interactions¹³ ~~The methods used for providers and other subcontractors with direct member contact. — The education program shall be designed to make providers and subcontractors~~ aware of the importance of providing services in a culturally competent manner and understanding of health literacy. The Contractor’s education and training program shall also include the following, but not limited to:
- a. Ongoing t~~Contractor shall also make additional efforts to training~~ or assistance to providers and subcontractors with regarding how to provide culturally competent services to members, and
 - ~~c.b. The Contractor shall t~~Track provider participation in cultural competency trainings.¹⁴

C. CULTURAL COMPETENCY PLAN ASSESSMENT

The Contractor shall perform an annual assessment of the effectiveness of its CCP, including a review of goals from the prior year¹⁵. ~~Based on the results of its annual assessment, the Contractor shall include modifications as appropriate to their CCP. The CCP a~~Assessment shall consider the following including but not limited to:

1. Linguistic need.
~~Provision of family-centered care.¹⁶~~
2. Comparative member satisfaction surveys.
3. Outcomes for certain cultural groups.
4. Translation and interpretation services and utilization.
5. Member complaints and grievances.
- ~~5.6.~~ Provider feedback.
- ~~6.7.~~ Contractor employee surveys.
- ~~7.—~~ Communicating progress in implementing and sustaining CCP goals to stakeholders.¹⁷

The Contractor shall track and trend any identified issues as well as take ~~shall be tracked and trended, and~~ actions ~~taken~~ to resolve the issue(s). Additionally, the Contractor shall communicate its progress in implementing and sustaining CCP goals to stakeholders, members, and the general public.¹⁸

¹³Revised to provide clarity that the education and training program shall have methods for member interactions.

¹⁴ Revised to separate out the provider and subcontractor education and training requirements.

¹⁵Revised to ensure that goals from the prior year are included.

¹⁶ Removed due to being included Contract under Special Health Care Needs.

¹⁷ Moved down for flow purposes.

¹⁸ Clarified the Contractor’s responsibilities.

~~The Contractor shall submit a Cultural Competency Plan Assessment with a completed Attachment A as specified in the Contract, Section F, Attachment F3, Contractor Chart of Deliverables. The Contractor is only required to submit the Cultural Competency Plan Assessment with a completed Attachment A if the Contractor has not obtained NCQA Health Equity (HE) Accreditation or should the Contractor lose its accreditation (either due to non-renewal or revocation).~~

D. LANGUAGE ACCESS ~~PLAN~~ REQUIREMENTS

The Contractor shall take reasonable steps to have a ensure meaningful access to all services, information, and program materials for members with LEP, consistent with all applicable federal requirements such as but not limited to, 42 CFR 438, 42 CFR 435.905, 42 CFR 440.262, Section 1557 of the Affordable Care Act (ACA), Title VI of the Civil Rights Act of 1964, 45 CFR Part 92 and any related State requirements.¹⁹ ~~Language Access Plan (LAP) that indicates how the needs of members with LEP are met.~~

The ~~Contractor LAP~~ shall comply with, including but not limited to, address each of the following ~~elements~~ requirements to ensure meaningful access for members with LEP:

1. Needs and Capacity Assessment

~~The Contractor's p~~The Processes to regularly identify and assess the language assistance needs of its members and potential members, as well as ~~the processes to assess the Contractor's its~~ capacity to meet these needs ~~according to the elements of this plan.~~

2. Language Assistance Services, including, but not limited to:

a. The Contractor shall provide the ~~An~~ established point of contact for members who need language assistance services.;

b. ~~The~~ Information ~~outlining~~ the ~~Contractor's~~ processes to provide member information in easily understood language and in a readily accessible format when requested by a member. ~~The~~ Considerations shall include members with LEP or limited reading skills, those with diverse cultural and ethnic backgrounds, and those with visual or auditory limitations as specified in 42 -CFR 438.10²⁰, and

a-c. The Contractor shall include the processes es used to ensure that the interpreters used are qualified to provide the service and understand interpreter ethics and member confidentiality needs as specified in 45 CFR 92.4 and 45 CFR 92.101.

3. Written Translations

The processes for ~~H~~ow written materials critical to obtaining services (also known as vital materials) are identified, translated, ~~and~~ made readily accessible in various formats, and include taglines in the prevalent non-English language spoken for each LEP population in the Contractor's service area as specified in the 42 CFR 438.10 ~~(d)(3)~~ and in ~~the in~~ accordance with the need and capacity assessments ~~of need and capacity conducted as specified in assessment.~~²¹

¹⁹ Revised to reflect language access requirements and align with federal regulations revisions made throughout this section as applicable.

²⁰ Updated to align with 42 CFR 438.10.

²¹ Updated to align with 42 CFR 438.10.

This includes the requirement for provision of all written materials for members to be translated into Spanish whether or not the written materials are considered vital. Refer to ACOM Policy 404 for additional requirements.

4. Policies and Procedures

~~The w~~The written policies and procedures that ensuring ensure members with LEP have meaningful access to programs and activities.

5. Notification of the Availability of Language Assistance at No Cost

A description of how the Contractor ensures meaningful access to the Contractor's programs, including notifying current and potential members with LEP about the availability of language assistance (e.g., translation/interpretation services and auxiliary aids utilized by members who are deaf and hard of hearing) at no cost. This includes access to oral interpretation, translation, sign language, disability-related services, and provision of auxiliary aids and alternative formats on request.

The notification methods may include multilingual taglines in member materials, as well as statements on forms including electronic forms such as agency websites. ~~—~~The results as specified in the needs and capacity assessment above should be used to determine the languages in which the notifications should be translated.

6. Staff Training

A description of the Contractor's employee training to ensure management and staff understand and can implement the policies and procedures of the language access requirements to ensure members with LEP have meaningful access to programs and activities^{LAP²²}.

7. Access and Quality Assessment

The processes to regularly assess the accessibility and quality of language assistance activities for members with LEP, maintain an accurate record of language assistance services, and implement or improve LEP outreach programs and activities in accordance with customer need.

8. Stakeholder Consultation

The processes for engaging stakeholder communities to identify language assistance needs of members with LEP, implement appropriate language access strategies to ensure members with LEP have meaningful access in accordance with assessments of member need^s, and evaluate progress on an ongoing basis.

9. Subcontractor Assurance and Compliance

The processes for ensuring subcontractors understand and comply with their obligations under civil rights statutes and regulations enforced by AHCCCS related to language access.

²² Added for clarity to include Limited English Proficiency (LEP) access.