Legal Obligation to Provide Interpreter & Translator Services

Health entities covered by certain federal civil rights laws are still required to provide interpreter and translator services during the COVID-19 pandemic.

Has the federal government suspended the legal obligation to provide interpreter and translator services during the COVID-19 public health emergency?

No, the federal government has not suspended this legal obligation for health entities covered by federal civil rights laws such as Section 1557 of the Affordable Care Act (“Section 1557”) or Title VI of the Civil Rights Act of 1964 ("Title VI"). In fact, the HHS Office for Civil Rights ("OCR") issued a bulletin on May 15 titled Ensuring the Rights of Persons with Limited English Proficiency in Health Care During COVID-19 to help ensure health entities are better able to serve individuals with limited English proficiency (LEP).

Title VI and Section 1557 prohibit entities receiving federal financial assistance from HHS from discriminating on the basis of race, color and national origin. Failure to provide an interpreter or translator when needed by an individual with LEP may be deemed discrimination on the basis of national origin. Section 1557 requires covered health care providers to take reasonable steps to provide meaningful access to individuals with LEP eligible to be served or likely to be encountered in their health programs and activities. Examples of reasonable steps may include written translations of documents, or providing an interpreter, either in-person or using remote communication technology.

Section 1557 permits a dentist to use remote interpretation through appropriate audio or video technologies. OCR stated in the Bulletin: “Health providers may encounter circumstances where, in their professional judgment, using or allowing in-person interpreters for persons with LEP would pose a health risk, such as by increasing the potential for spreading COVID-19. Under this nationwide public health emergency, government officials, health care providers, other recipients, and professional medical and hospital associations should utilize the flexibility allowed under the law, such as the use of remote interpretation through audio or video technologies, to ensure persons of all national origins are served, including persons with LEP.”

In addition, the Public Readiness and Emergency Preparedness (PREP) Act may provide immunity from certain liability under civil rights laws. See the HHS Advisory Opinion on the Public Readiness and Emergency Preparedness Act and the March 10, 2020 Declaration Under the Act April 17, 2020, as Modified on May 19, 2020, Advisory Opinion 20-04 on the Public Readiness and Emergency Preparedness Act and the Secretary’s Declaration Under the Act October 22, 2020, as Modified on October 23, 2020 and Advisory Opinion 20-03 on the Public Readiness and Emergency Preparedness Act and the Secretary’s Declaration Under the Act October 22, 2020, as Modified on October 23, 2020.

For more information:

- American Dental Association, Section 1557
- Office for Civil Rights, Civil Rights and COVID-19 related materials
- Centers for Disease Control and Prevention, CDC Resources in Languages Other than English and Print Resources in multiple languages
- U.S. Department of Justice, Limited English Proficiency website, Language Identification and I Speak Cards
- Department of Homeland Security, Tips for Effectively Communicating with the Whole Community in Disasters

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