



Implementing Exchanges

A series of briefs from Families USA on implementing health insurance exchanges

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Language Access Checklist For Marketplace Implementation

One in four consumers who will apply for health coverage through the new health insurance marketplaces will speak a language other than English at home.¹ The Affordable Care Act, which created these marketplaces (also known as “exchanges”), and federal civil rights laws require marketplaces to provide language services for people with limited English proficiency (LEP).² It is critical that marketplaces develop robust standards to ensure that these language services enable LEP consumers to successfully enroll in, use, and retain coverage.

The following checklist provides a list of recommendations that advocates can use to encourage their states to address the needs of LEP consumers in their health insurance marketplace:

Enrollment Assistance Programs (Navigators, In-Person Assisters, and Certified Application Counselors)

- Conduct a needs assessment to identify target LEP populations.³
- Select entities that currently provide bicultural and bilingual assistance to LEP people as navigators, in-person assisters, and certified application counselors.
- Require that entities applying to serve as navigators, assisters, and certified application counselors submit a plan for serving LEP consumers as part of the grant selection, contracting, or registration process.
- Ensure that assistance programs can reach and appropriately serve all LEP populations in the state.
- Provide training on assessing language needs, securing interpretation services, and working with interpreters for all navigators, assisters, certified application counselors, and insurance brokers that are certified by the marketplace.⁴
- Translate outreach materials into the most common languages in the state.⁵
- Incorporate community health centers and community health workers that serve LEP populations into outreach and enrollment assistance plans.
- Develop formal mechanisms for collecting feedback from LEP consumers and soliciting input from navigator and consumer assistance programs to help identify and address problems for LEP consumers.
- Collect and publicly report data on the number of interactions with LEP consumers, the languages they speak, and the use of language services.

Outreach and Education

- Develop culturally appropriate outreach and education plans that are tailored to LEP populations, particularly those groups that are affected by health disparities.
- Engage trusted messengers and community-based organizations that work with LEP populations in developing and implementing outreach plans.

Applications⁶

- Translate the paper and online applications into the most common languages in the state.⁷
- Provide direct access to translated versions of the online application through the enrollment portal on the marketplace website.
- Include prominent taglines in at least 15 languages on how to obtain assistance with the application in person or over the phone on the home page of the online application.⁸
- Provide easy access to translated paper applications, and include taglines describing how to obtain a translated version in at least 15 languages on the front page and in the instructions of the paper application.⁹
- Ask for the preferred language of all people listed on the paper and online applications, including applicants, other household members, and authorized representatives, and send communications in all languages indicated.

Call Center

- Conduct a needs assessment to identify target LEP populations.¹⁰
- Staff the marketplace call center with competent bilingual consumer service representatives for the most common languages spoken in the state, and provide access to competent oral interpreters at all times.
- Train call center representatives on responding appropriately to LEP callers, contacting bilingual staff or interpreters, and referring consumers to in-person enrollment assistance and consumer assistance programs.
- Record voice prompts for automated telephone systems in multiple languages to enable LEP callers to gain access to bilingual representatives or interpretation services, or provide a direct line for in-language assistance.
- Collect and publicly report data on the number of calls by LEP consumers, the languages they speak, and their use of language services.



Website

- Translate the marketplace website into Spanish and at least two other languages.
- Include taglines on the homepage of the marketplace website in the top 15 languages in the state to inform LEP consumers about the availability of written translations, oral language services, and in-person assistance.¹¹
- Place a prominent link to a directory of in-person and consumer assistance programs on the homepage of the marketplace website, where consumers can search for programs with staff who can provide assistance in their preferred language.



Notices and Information for Consumers

- Ensure that notices are written in plain language that LEP consumers can understand.¹²
- Translate consumer notices into the most common languages in the state.¹³
- Create a translated glossary of common health insurance terms to ensure that consistent language and definitions are used in communications with LEP consumers.¹⁴
- Include taglines in the top 15 languages in the state on all marketplace consumer notices to inform LEP consumers about the availability of written translations, oral language services, and in-person assistance.¹⁵
- Conduct focus group testing of marketplace notices with LEP consumers.



Governance

- Conduct a needs assessment to identify target LEP populations.¹⁶
- Create a health disparities committee or other formal mechanisms to identify and address linguistic and cultural needs in marketplace governance.
- Create a language access plan so that the needs of LEP consumers are addressed in the development and implementation of marketplace-related legislation, regulations, policies, contracts, and procedures.
- Ensure meaningful participation of LEP consumers from diverse communities and their advocates in marketplace governance, as well as advisory and oversight committees.
- Develop procedures to reassess and update the marketplace language access plan yearly.
- Designate a staff member who reports directly to the marketplace director or board to coordinate and oversee language services.



Certification of Qualified Health Plans (QHPs)

- Require QHPs to develop and submit a language access plan as part of certification.
- Develop requirements for QHPs to provide free oral interpretation assistance at all points of contact with the plan and health care providers.
- Require QHPs to include information on language services in provider directories.
- Develop procedures to ensure that QHPs meet requirements for providing information, including the Summary of Benefits and Coverage (SBC), in plain language that is understandable for LEP consumers.¹⁷
- Require QHPs to translate consumer information, including the SBC, into the most common languages in the health plan service area.¹⁸
- Require QHPs to include taglines in the top 15 languages in the state on all written consumer information to inform LEP consumers about the availability of translations, oral language services, and consumer assistance resources.¹⁹
- Ensure that QHPs include a broad selection of safety net and community providers that have experience serving LEP populations in their networks.
- Enact requirements and incentives for QHPs to develop robust strategies to reduce disparities in health and health care among LEP populations.
- Require QHPs to report demographic data, including primary language of enrollees.
- Include consumer experience with cultural competency and language services in QHP quality rating information that is given to consumers.

Endnotes

¹ Kaiser Commission on Medicaid and the Uninsured, *A Profile of Health Insurance Exchange Enrollees* (Washington: Kaiser Family Foundation, March 2011), available online at <http://www.kff.org/healthreform/upload/8147.pdf>.

² Section 1557 of the Affordable Care Act and Title VI of the Civil Rights Act of 1964 prohibit discrimination by entities that receive federal funding, including health insurance marketplaces and the health plans that participate in them. See National Health Law Program, *The ACA and Application of § 1557 and Title VI of the Civil Rights Act of 1964 to the Health Insurance Exchanges* (Washington: National Health Law Program, January 2011), available online at http://www.healthlaw.org/images/stories/Short_Paper_6_The_ACA_and_Application_of_Section_1557_and_Title_VI.pdf.

³ For LEP population data see the Migration Policy Institute Language Portal, available online at http://www.migrationinformation.org/integration/language_portal/.

⁴ Families USA, *Help Wanted: Preparing Navigators and Other Assistants to Meet Consumer Needs* (Washington: Families USA, December 2012), available online at <http://www.familiesusa.org/resources/tools-for-advocates/preparing-navigators-tool-kit/question-2.html>.

⁵ Prior to the Affordable Care Act, LEP guidance from the Department of Health and Human Services established a “safe harbor” for translating vital documents if a language group comprised 5 percent of the population or 1,000 people in a service area, whichever is less. Department of Labor regulations adopted a threshold of 10 percent of the population or 500 individuals in a service area to translate summary plan materials. Since the Affordable Care Act recognizes the importance of language access, we recommend adopting the lower thresholds and translating vital documents when an LEP population comprises 5 percent of the population or 500 people in a service area. States should use certified translators and follow best practices in translating information for consumers. For qualities of a good translation, see Enroll America and Maximus Center for Health Literacy, *Translations that Hit the Mark* (Washington: Enroll America, October 2012), available online at <http://www.enrollamerica.org/best-practices-institute/publications-and-resources/2012/translations-that-hit-the-mark>.

⁶ States may use the single, streamlined application developed by the Department of Health and Human Services (HHS), or they may develop an alternative application that must be approved by the Secretary of HHS. If applications include supporting documents, they should also be translated and include taglines.

⁷ LEP guidance, op. cit.

⁸ For a description of language taglines and sample tagline language, see National Health Law Program, *The ACA and Language Access* (Washington: National Health Law Program, January 2011), available online at http://www.healthlaw.org/images/stories/Short_Paper_5_The_ACA_and_Language_Access.pdf.

⁹ Ibid.

¹⁰ Migration Policy Institute Language Portal, op. cit.

¹¹ National Health Law Program, *The ACA and Language Access*, op. cit.

¹² Federal guidance and resources on developing consumer documents that are written in plain language are available online at www.plainlanguage.gov.

¹³ LEP guidance, op. cit.

¹⁴ National Health Law Program, *Translation Glossaries: The Need for Standardization of ACA-Related Terms* (Washington: National Health Law Program, February 2013), available online at http://www.healthlaw.org/images/stories/Translation_Glossaries.pdf.

¹⁵ National Health Law Program, *The ACA and Language Access*, op. cit.

¹⁶ Migration Policy Institute Language Portal, op. cit.

¹⁷ Section 1311 of the Affordable Care Act requires health plans that are seeking certification as QHPs in health insurance marketplaces to provide consumer information in plain language, which is defined as “language that the intended audience, including individuals with limited English proficiency, can readily understand and use because that language is concise, well organized, and follows other best practices of plain language writing.” Federal guidance on plain language writing is available online at www.plainlanguage.gov.

¹⁸ LEP guidance, op. cit.

¹⁹ National Health Law Program, *The ACA and Language Access*, op. cit.

Acknowledgments

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