



Medicaid Managed Care Model Provisions: Accessibility & Language Access

Issue No. 4

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Introduction

The National Health Law Program has focused on the legal provisions governing Medicaid managed care for nearly three decades. The Medicaid program has changed significantly and now requires millions of older people, people with disabilities, and those with Limited English Proficiency to enroll in managed care. Yet, the regulations have not been updated for more than a decade and no longer reflect the needs of the covered populations, or current clinical practices and technological capabilities. To address these deficiencies, NHeLP has developed a complete set of modernized [model federal regulations](#).¹

To focus advocates on areas that were significantly updated, NHeLP has prepared a series of issue briefs featuring selected model provisions governing five aspects of Medicaid managed care: beneficiary grievances and appeals, enrollment and disenrollment, network adequacy, accessibility, and quality and transparency.² We encourage policy makers and advocates to use these model provisions to update existing regulations, policies, and managed care contracts.

TOPIC # 4: ACCESSIBILITY & LANGUAGE ACCESS

Background on Accessibility and Language Access:

Access for people with disabilities or Limited English Proficiency (LEP) is critical to ensuring that a state's Medicaid program provides appropriate services to all participants, including managed care enrollees. Disability- and language-related barriers to access may severely limit an individual's opportunity to access medical care, assess options, express choices, and ask questions or seek assistance. Culturally and linguistically

¹ We used the current federal Medicaid managed care regulations at 42 C.F.R. part 438 as the starting point for developing our comprehensive model provisions. The regulations address state obligations, enrollee rights and responsibilities, quality assessment and improvement, external quality review, grievance systems, certification and program integrity, sanctions, and conditions for federal funding.

² Our issue brief on Quality and Transparency will be issued later in the fall of 2014.

appropriate services and assistance are necessary for individuals to access Medicaid services and providers. Managed care plans especially need protections that protect and promote access because managed care plans often have limitations, such as more limited networks of providers, which may lead to access problems and limited care.

Increasing numbers of people with disabilities, including those eligible for both Medicaid and Medicare (dual eligibles) are being required to enroll in managed care plans. In 2009, 43% of Medicaid expenditures were for individuals under age 65 with disabilities, despite the fact that these enrollees comprise only 15% of the total Medicaid enrollment.¹ Although the percentage of Medicaid beneficiaries enrolled in managed care varies by state from less than 1 percent to over 90 percent, 28 percent of all Medicaid enrollees with disabilities are enrolled in comprehensive risk-based managed care.² This percentage is expected to grow as more states turn to managed care for long-term services and supports and to attempt to control costs for populations with extensive medical needs.³

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Laws require that Medicaid programs and services be accessible to beneficiaries with disabilities.⁴ States must make offices and equipment physically accessible and provide other reasonable accommodations such as sign language interpreters and assistive communication devices, communication access (such as providing longer appointments or information in plain language), TTY/TTD telephonic assistance, materials in alternate formats, and website accessibility. Because so many Medicaid services are provided by and through managed care plans, providers, and other contractors, it is crucial that these entities and agents understand their obligations. The state Medicaid agency must also recognize its obligations to ensure an accessible program, including through enforcing contracts with these contractors.

Language services for individuals with LEP are also critical to accessing care and receiving quality care. Numerous studies have found that inadequate language services can negatively affect both access to and quality of care, leading to serious health consequences.⁵ Language barriers lead to inaccurate or incomplete information sharing and are a primary reason why populations with LEP disproportionately underutilize less expensive and quality-enhancing preventive care.⁶

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More than 21% of the households in the United States speak a language other than English in the home and only about 60% of these households self-report as speaking English "very well".⁷ The growing demand for effective language services is complex due to the number of languages spoken, costs associated with providing such services, and a lack of knowledge on the part of health care providers of legal requirements for providing language services. However, as with disability-related

accessibility, understanding the obligations for language access and the importance of culturally appropriate care at all points of contact and care is central to accessible, quality care and positive health outcomes.⁸

Managed care rules need to address disability-related accessibility and language access issues. The current federal regulations need to be updated to address these issues more completely. The same is likely true for many state laws, contracts, and policies governing Medicaid managed care. In addition, federal and state legal and policy requirements related to transparency also must be updated. Many of these requirements relate to use of a managed care entity's website or the provision of written materials. These transparency requirements should improve information access, but only if they ensure accessibility for people with disabilities and LEP.

Recurring Problems: Managed care enrollees may encounter a variety of issues with accessibility and language access, including:

- Lack of accessible communication. This includes print materials, call centers, customer service or care access lines, care coordinators, service providers, and grievance procedures.
 - Examples of accessibility issues include: use of materials that are not offered in an accessible or alternate format; materials that are not readable by screen-reading technology; websites that are not accessible, not providing sign language interpreters or other communication aids; failure to provide information at an accessible reading level; and use telephone systems, such as certain voice recognition systems, that are not accessible for all users.
 - Examples of LEP related issues include materials that are not translated or do not include taglines in the languages of the enrollee population informing individuals how to request materials in their language as well as failure to provide interpreters for appointments or communications with providers and call centers.
- Few or no providers with accessible facilities and equipment or established language services procedures to provide reasonable accommodations, so that enrollees may have equal access to the services.
- Lists of providers with no indication of languages spoken or no evaluation of language proficiency prior to being listed in a provider directory.
- Service networks that do not reflect the language and cultural makeup or accessibility needs of the service area. Without appropriate service providers, individuals either cannot access care or will be more unlikely to do so because the provider does not understand their needs.
- Use of friends, families, companions, and others as interpreters regardless of whether it is appropriate or if that individual is proficient in both languages (including relevant medical terminology) to provide effective communication.

Understanding the obligations for disability related accessibility as well as language access and the importance of culturally appropriate care at all points of contact and care is central to accessible, quality care and positive health outcomes.⁸

- Notices of an action by the managed care entity that are not accessible, in the individual's preferred format or language, or do not include an accessible or non-English tagline about how to request the appropriate format.
- Grievance and appeals process without an interpreter, translated materials, or accommodations throughout the process.
- Education materials, such as web sites or other tools used for consumer assistance purposes that are not accessible, provided in alternate format, or competently translated into prevalent non-English languages.
- Lack of a well-publicized mechanism for an enrollee to request accommodations, translation, or interpreter services and managed care employees who are unaware or insufficiently trained regarding such a mechanism so as to direct enrollees to the process.

These model provisions address these problems by:

- Setting clear and specific standards for language and disability access.
- Requiring that information and assistance provided to enrollees and potential enrollees be in the individual's preferred language, at no cost to that individual, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary or requested by the enrollee.
- Limiting the use of family or friends as interpreters to specific circumstances.
- Imposing requirements to develop and maintain knowledge about the composition of the enrollee community and the health needs of that community, including accessibility and language needs and available providers to meet those needs in the geographic area. The managed care entity must take this information into account when establishing and maintaining a provider network so services will be available to meet the specific needs of that community.
- Requiring ongoing staff education and training in culturally and linguistically appropriate service delivery.
- Requiring language information be included in the categories of information given to enrollees about providers.
- Establishing information requirements for communications with enrollees and potential enrollees, including the use of taglines, and continuing provision of information in the preferred format once the managed care entity has knowledge of the preferred format.
- Imposing detailed requirements upon plans and State agencies to ensure that they comply with federal requirements providing that people with disabilities and with limited English proficiency have access to information about the grievance and appeals systems, receive understandable and accessible notices, and are able to file grievances.
- Updating discrimination provisions.
- Providing mechanisms to allow enrollees to obtain services out of network.
- Requiring that information about language and disability access be clearly and accessibly provided, including information about the availability of auxiliary aides and services.

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Medicaid Managed Care Accessibility for People with Disabilities and Limited English Proficiency

Note: These model provisions are based on NHeLP's comprehensive set of modernized Medicaid managed care regulations.

Section One: Definitions

LEP means Limited English Proficiency, as defined by the Office for Civil Rights' Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47311 (Aug. 8, 2003).

Prepaid Managed Care Plan (PMCP): A Medicaid managed care organization (MCO), Prepaid Inpatient Health Plan (PIHP), or Prepaid Ambulatory Health Plan (PAHP), as defined by 42 C.F.R. § 438.2.

Primary Care Case Manager (PCCM): A physician, entity employing physicians, or (at state option) another health care practitioner that contracts with a State to provide case management services, as defined by 42 C.F.R. § 438.2.

Section Two: Language Access and Disability Access

(a) *General rule.* A State that requires Medicaid beneficiaries to enroll in a PMCP or PCCM shall ensure that the PMCP or PCCM complies with the requirements in subparagraph (b) regarding assistance for individuals who have LEP and subparagraph (c) ensuring access for individuals with disabilities.

(b) *Standards for Ensuring Access to Individuals who are Limited English Proficient.* The following standards shall apply to ensure that information provided to any potential enrollee or enrollee is culturally and linguistically appropriate to the needs of the population being served, including individuals who have LEP such that an PMCP and PCCM must:

- (1) Develop and maintain general knowledge about the racial, ethnic, and cultural groups in their service area, including each group's diverse cultural health beliefs and practices, preferred languages, health literacy, and other needs;
- (2) Collect and maintain updated information to help understand the composition of the communities in the service area, including the primary languages spoken;
- (3) Provide enrollees and potential enrollees with all information and assistance in the consumer's preferred language, at no cost to the enrollee or potential enrollee, including the provision of oral interpretation of non-English languages and the translation of written documents in non-English languages when necessary or when requested by the enrollee to ensure effective communication.
 - (i) Use of an enrollee's family or friends as oral interpreters can satisfy the requirement to provide linguistically appropriate services only when requested by the enrollee as the preferred

- alternative to an offer of other interpretive services and the PMCP or PCCM assesses the competency of the family member to serve as an interpreter;
- (ii) An accompanying adult may not be relied upon when there is reason to doubt the person's impartiality or effectiveness.
 - (iii) An adult or minor child may be relied upon to interpret or facilitate communication only when a qualified interpreter is not available in an emergency involving an imminent threat to the safety or welfare of an individual or the public.
- (4) Provide oral and written notice to enrollees with LEP, in their preferred language, informing them of their right to receive language assistance services and how to obtain them;
 - (5) Provide staff ongoing education and training in culturally and linguistically appropriate service delivery; and
 - (6) Implement strategies to recruit, support, and promote a staff that is representative of the demographic characteristics, including primary languages spoken, of the communities in their service area.
- (c) *Standards ensuring access for persons with disabilities.* The following standards will apply to ensure that information provided to any potential enrollee or enrollee is culturally and linguistically appropriate to the needs of the population being served, including individuals with disabilities. A PMCP or PCCM must:
- (1) Ensure that any consumer education materials, Web sites, or other tools utilized for consumer assistance purposes, are accessible to people with disabilities, including those with sensory impairments, such as visual or hearing impairments, and those with mental illness, addiction, and physical, intellectual, and developmental disabilities;
 - (2) Ensure that notices are provided in alternative formats or communicated using auxiliary aids and services when needed to ensure effective communication of information with individuals with disabilities;
 - (3) Provide assistance to enrollees or potential enrollees in a location and in a manner that is physically and otherwise accessible to individuals with disabilities;
 - (4) Provide effective communication to covered companions with communication disabilities;
 - (5) Ensure that authorized representatives are permitted to assist an individual with a disability to make informed decisions;
 - (6) Acquire sufficient knowledge to refer people with disabilities to local, State, and federal long-term services and supports programs when appropriate;
 - (7) Be able to work with all individuals regardless of age, disability, or culture, and seek advice or experts when needed; and
 - (8) Provide auxiliary aids and services for individuals with disabilities, at no cost, when necessary or when requested by the enrollee or potential enrollee to ensure effective communication.
 - (i) Use of an enrollee or potential enrollee's adult family or friends as interpreters can satisfy the requirement to provide auxiliary aids and services only when requested by the enrollee or potential enrollee as the preferred alternative to an offer of other auxiliary aids and services, the accompanying adult agrees, and the PMCP or PCCM assesses the competency of the family member to serve as an interpreter.

(ii) An accompanying adult may not be relied upon when there is reason to doubt the person's impartiality or effectiveness.

(iii) An adult or minor child may be relied upon to interpret or facilitate communication only when a qualified interpreter is not available in an emergency involving an imminent threat to the safety or welfare of an individual or the public.

(d) *Monitoring.* Any PMCP or PCCM during the exercise of its authority must monitor compliance with the standards in this section.

Section Three: Information Requirements

(a) *Language.* The State must do the following:

(1) Establish a methodology for identifying the prevalent non-English languages spoken by enrollees and potential enrollees throughout the State and in each service PMCP and PCCM's area. "Prevalent" means a non-English language spoken by 500 or 5%, whichever is less, of potential enrollees and enrollees in the State.

(2) Make available competent translation of written information in each prevalent non-English language. Written information can be created in each non-English language or translated from English.

(3) Require each PMCP and PCCM to make its written information available in the prevalent non-English languages in its particular service area. All written information and notices must include taglines in at least 15 languages and large print informing individuals of the availability of written translations or oral assistance to understand the information provided and a toll-free telephone number to request assistance.

(4) Make competent oral interpretation services available and require each PMCP and PCCM to make those services available free of charge to each potential enrollee and enrollee. This applies to all non-English languages, not just those that the State identifies as prevalent.

(5) Notify enrollees and potential enrollees, and require each PMCP and PCCM to notify its enrollees—

(i) That oral interpretation is available for any language and written information is available in prevalent languages; and

(ii) How to access those services.

(6) Make all information available in alternative formats accessible for people with disabilities. All notices and written information must include a large print tagline and information on how to request the notice in alternative formats.

(7) Require each PMCP and PCCM to include a large print tagline and information on how to request the notice in alternative formats.

(8) For the purpose of this section, competence is defined by the Office for Civil Rights' Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 68 Fed. Reg. 47311 (Aug. 8, 2003).

(b) *Format.*

(1) Written material must—

- (i) Use easily understood language and format; and
 - (ii) Comply with the standards set forth in Section 2.
- (2) The State must inform enrollees and potential enrollees that information is available in alternative formats and how to obtain information in the appropriate format. It must also require each PMCP and PCCM to provide notice to its enrollees and potential enrollees that information is available in alternative formats and how to obtain information in the appropriate formats.
- (c) *General information for all enrollees of PCMPs and PCCMs.* Information must be furnished to PMCP and PCCM enrollees as follows:
- (1) The State, its contracted representative, or the PMCP or PCCM must provide the following information to all enrollees:
 - (i) Names, locations, telephone numbers of, and non-English languages spoken by current contracted providers in the enrollee's service area, including identification of providers that are not accepting new patients. For PMCPs this includes, at a minimum, information on primary care physicians, specialists, and hospitals.
 - (ii) Any restrictions on the enrollee's freedom of choice among network providers.
 - (iii) Enrollee rights and protections.
 - (iv) Information on grievance and fair hearing procedures.
 - (v) The amount, duration, and scope of benefits available under the contract in sufficient detail to ensure that enrollees understand the benefits to which they are entitled, including prescription drugs, mental health and substance use services, and long term services and supports.
 - (vi) Procedures for obtaining benefits, including authorization requirements and factors such as physical accessibility and non-English languages spoken.
 - (vii) The extent to which, and how, enrollees may obtain benefits, including family planning services, from out-of-network providers.
 - (ix) How to request information in non-English languages or alternative formats.
 - (x) How to request auxiliary aids and services.
 - (xi) Additional information that is available upon request and how to request that information.
 - (2) In all cases, if the State, its contracted representative, or the PMCP or PCCM knows or has reason to know that an enrollee has LEP, the notice must be provided in the enrollee's non-English language. If the State, its contracted representative, or the PMCP or PCCM knows or has reason to know that the enrollee has a disability that requires an alternative format for notices, an overview of the information must be provided in that alternate format.
 - (3) In addition to furnishing the information described in this subsection directly to enrollees, the State, its contracted representative, and the PMCP or PCCM (as applicable) must post the information on a website that is accessible to the public.
- (d) *Specific information requirements for enrollees of PCMPs.* The State, its contracted representative, or the PMCPs must provide the following information to their enrollees at least annually and make the information available by posting on a website that is accessible to the public:

- (1) Additional information for individuals who have LEP or have disabilities.
 - (i) If the State, its contracted representative, or the PMCP or PCCM knows or has reason to know that the enrollee has LEP, an overview of the information must be provided in the enrollee's non-English language and information on how to access all of the information in the enrollee's language. Otherwise, the information must comply with Section Two.
 - (ii) If the State, its contracted representative, or the PMCP or PCCM knows or has reason to know that the enrollee has a disability that requires an alternative format for notices, an overview of the information must be provided in that alternate format. Otherwise, the information must comply with Section Two.

Section Four: Enrollee Rights

An enrollee of a PMCP or PCCM has the right to—

- (1) Receive information described in Section Three(c).
- (2) Be treated with respect and with due consideration for his or her dignity and privacy.
- (3) Receive information on available treatment options and alternatives, presented in a manner appropriate to the enrollee's condition and ability to understand.
- (4) Participate in decisions regarding his or her health care, including the right to refuse treatment. If an enrollee has a guardian or legal representative, health care decisions should be driven by the individual.
- (5) Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience or retaliation, as specified in other Federal regulations on the use of restraints and seclusion.
- (6) Not to be discriminated against on the basis of race, color, national origin, language, disability age, sex, gender identity or sexual orientation.
- (7) File grievances, appeal, or file complaints with or against the PMCP.

Section Five: Marketing Activities

(a) *State agency review.*

- (1) The State must review all marketing materials and informing practices for accuracy of information, language, reading level, comprehensibility, cultural sensitivity and diversity. Marketing materials must conform to the requirements in Sections Two and Three.
- (2) The State must review all marketing materials and informing practices to ensure that the PMCP or PCCM does not target or avoid populations based on their perceived health status, cost or for other discriminatory reasons.

Section Six: Elements of State Quality Strategies

At a minimum, State strategies must include the following:

(a) Procedures that—

(1) Identify the race, ethnicity, and primary language spoken of each Medicaid enrollee. States must provide this information to the PMCP for each Medicaid enrollee at the time of enrollment and, for each enrollee who is a minor or incapacitated, the primary language of the enrollee's parent(s) and guardian(s).

Section Seven: Furnishing of Services.

Cultural considerations. The State must ensure that each PMCP participates in the State's efforts to promote the delivery of services in a culturally competent manner to all enrollees, including those with LEP and diverse cultural and ethnic backgrounds. Each PMCP must ensure that services related to language access and disability access are provided to all potential enrollees and enrollees who have LEP or have disabilities, as required by Section 2. Each PMCP must pay for the costs of the language access and disability access and not require its network providers to pay for these costs.

Section Eight: Notice of Action

Language and format requirements.

- (1) The notice must be in writing and must meet the language and format requirements of Sections Two and Three to ensure ease of understanding.
- (2) If the State, its contracted representative, or the PMCP or PCCM has information that the recipient has LEP, the notice must be provided in the recipient's non-English language and information on how to access all of the information in the recipient's language. For all other beneficiaries, an overview must include taglines in at least 15 languages informing individuals of the availability of written translations or oral assistance to understand the information provided and a toll-free telephone number to request assistance.
- (3) If the State, its contracted representative, or the PMCP or PCCM has information that the recipient has a disability that requires an alternative format for notices, the notice must be provided in that alternate format and must include a large print tagline and information on how to request the notice in alternative formats.

Section Nine: Handling of Grievances and Appeals

(a) *General requirements.* In handling grievances and appeals, each PMCP must meet the following requirements:

- (1) Give enrollees any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability, as well as ensuring that forms and notices are available in alternative formats, in compliance with Section Two.
- (2) Provide for submission of grievances and appeals in a non-English language or alternate format to accommodate the needs of individuals with LEP or individuals with disabilities.

(b) *Special requirements for appeals.* The process for appeals must:

- (1) Provide that enrollees who have LEP are provided language services throughout the appeals process including translated notices, oral language services at the appeal.
- (2) Provide that enrollees who have disabilities and need written information in alternative formats or augmentative or auxiliary aids for communication are provided those aids throughout the appeals process including notices in alternative format and assistance at the appeal.

Section Ten: Resolution and Notification: Grievances and Appeals

(a) Format of notice.

(1) For individuals who have LEP, the notice must be:

- (i) translated into the enrollee's language if the enrollee's language is prevalent (as described in Section Two and Section Three; or
- (ii) include a tagline in the enrollee's language informing the enrollee how to obtain the information contained in the notice in the enrollee's language.

(2) For individuals with disabilities who need written materials in an alternate format, the notice must be provided in that format.

(b) Requirements for State fair hearings.

(1) *Language Access and Disability Access.*

- (i) For individuals who have LEP, the State must provide language services including translated notices, oral language services at the appeal.
- (ii) For individuals who have disabilities and need written information in alternative formats or augmentative or auxiliary aids for communication, the State must provide those aids throughout the appeals process including notices in alternative format, assistance at the appeal.

Section Eleven: Continuation of Benefits While the PMCP Appeal and the State Fair Hearing Are Pending

Enrollee responsibility for services furnished while the appeal is pending. If the final resolution of the appeal is adverse to the enrollee, that is, upholds the PMCP's action, the PMCP may recover the cost of the services furnished to the enrollee while the appeal is pending. To recover costs from an enrollee who has LEP or has a disability that requires information provided in alternate formats, the PMCP may only recover the cost of the services furnished to the enrollee while the appeal is pending if the PMCP can document that it provided the enrollee with information about recovery in the enrollee's language or in an alternate format to meet the needs of an individual with a disability.

Section Twelve: External Quality Review Results

The State must post copies of the information specified in paragraph (a) of this section on a website accessible to the general public. The State must make this information available in alternative formats for persons with LEP or disabilities, in accordance with Section Two and Section Three, when requested.

Updating Prohibitions on Discrimination

In addition to the preceding requirements, there should also be general antidiscrimination protections in these areas. While most contracts have antidiscrimination provisions or require compliance with civil rights laws, these standard provisions may require updating to account for new laws, new antidiscrimination protections, and current language. For example, most existing antidiscrimination provisions may not include the protections from section 1557 of the ACA. The following are three examples of updated antidiscrimination provisions.

(1) *Prohibition on discrimination in contracting.*

Contracts shall comply with all applicable Federal and State laws and regulations including title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972 (regarding education programs and activities); the Age Discrimination Act of 1975; the Rehabilitation Act of 1973; section 1557 of the Affordable Care Act, and the Americans with Disabilities Act of 1990 as amended.

(2) *Prohibition on Discrimination in Enrollment.*

The PMCP or PCCM will not discriminate against individuals eligible to enroll on the basis of race, color, or national origin, language, disability, age, sex, sexual orientation, or gender identity, and will not use any policy or practice that has the effect of discriminating on the basis of race, color, or national origin, language, disability, age, sex, sexual orientation, or gender identity. The PMCP or PCCM will comply with the requirements of section 1557 of the Affordable Care Act, the community integration requirements of Title II of the Americans with Disabilities Act, and require and monitor the implementation and use of person-centered needs assessment, service planning, and service coordination policies and protocols.

(3) *Prohibition on Discrimination in Provider Enrollment/Selection.*

PMCP provider selection policies and procedures, must not:

- Discriminate against particular providers that serve high-risk populations or specialize in conditions that require costly treatment
- Discriminated against particular providers on the basis of their race, color, national origin, language, disability, age, sex, gender identity, or sexual orientation.

(4) *Certification.*

All contracting providers certify that their facilities and services are accessible to all enrollees, and fully compliant with the Americans with Disabilities Act (ADA) and any other applicable State and federal disability and civil rights laws.

ENDNOTES

- ¹ Kaiser Commission on Medicaid and the Uninsured, Distribution of Payments by Medicaid Enrollment Group FY2010, <http://www.statehealthfacts.org/comparetable.jsp?ind=200&cat=4&sub=52&yr=90&typ=2> (last visited July 1, 2014). Moreover, in 2009, while enrollees over age 65 comprised only 10% of the Medicaid population, they accounted for 23% of Medicaid spending. *Id.*
- ² MEDICAID & CHIP PAYMENT & ACCESS COMM'N, REPORT TO THE CONGRESS: THE EVOLUTION OF MANAGED CARE IN MEDICAID 3 (Jun. 2011), <http://www.gpo.gov/fdsys/pkg/GPO-MACPAC-2011-06/pdf/GPO-MACPAC-2011-06.pdf> (last visited July 1, 2014).
- ³ *Id.* at 12.
- ⁴ 29 U.S.C. §§ 794, 794a; 42 U.S.C. § 12132; *see also* Sarah Somers, NHeLP Q&A: Medicaid Managed Care and Disability Discrimination Protections (May 2012), http://www.healthlaw.org/issues/disability-rights/qa-medicaid-managed-care-and-disability-protections#.U7HAo_lVdVA.
- ⁵ NATIONAL HEALTH LAW PROGRAM, LANGUAGE SERVICES RESOURCE GUIDE FOR HEALTH CARE PROVIDERS 11 (2006), <http://www.healthlaw.org/publications/language-services-resource-guide-for-health-care-providers#.U8fXlvldVDA>.
- ⁶ *Id.*
- ⁷ U.S. Census Bureau, American Community Survey, Language Spoken at Home, S1601 (2012) http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_S1601&prodType=table (last visited August 1, 2014).
- ⁸ 42 U.S.C. § 2000d. Title VI of the Civil Rights Act of 1964 prohibits federal fund recipients from discriminating on the basis of race, color, or national origin. Title VI's prohibition against discrimination on the basis of national origin has been interpreted to require federal fund recipients to ensure meaning full access for person with limited English proficiency (LEP). *See Lau v. Nichols*, 414 U.S. 563 (1974). *See* Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 Fed. Reg. 1763 (Jan. 12, 2004) (failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate Title VI of the Civil Rights Act and regulations against national origin discrimination); CMS, *Dear State Medicaid Director* (Aug. 31, 2000) (discussing policy guidance requiring state agencies and providers of Medicaid/CHIP services to assure access for persons with LEP).