May 17, 2024

Office of Minority Health
1101 Wootton Parkway, Suite 100
Rockville, MD 20852

Re: Request for Information: Development of a Universal Symbol for Language Assistance Services in Health Settings

To whom it may concern:

The National Health Law Program (NHeLP) is a public interest law firm working to advance access to quality health care and protect the legal rights of low-income and underserved people. We have advocated for improved laws, funding, policies and procedures related to language access for individuals with limited English proficiency (LEP) for much of our fifty-five year history. We appreciate the opportunity to provide these comments on the Office of Minority Health's *Request for Information regarding Development of a Universal Symbol for Language Assistance Services in Health Settings*.

Overall, NHeLP strongly supports the development of a universal symbol for language assistance services. Language access is essential to ensuring effective communication between LEP individuals and the health care system and their health care providers. Without language services, LEP individuals may not enroll in programs for which they are eligible, may not receive timely or comprehensive healthcare, and may not know their rights to free, timely and competent language services. We believe having a universal symbol – with comprehensive education of individuals with LEP about the symbol and widespread adoption by all entities participating in

the health care arena – would help improve understanding about how to request language assistance services and ensure effective communication for individuals with LEP.

Meaningful Access for Individuals with LEP

Under both Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act, individuals with LEP have the legal right to receive language assistance services. Yet many go without these services because they do not know how to request them. The need for language access in health care is significant: more than 8% of the U.S. population – more than 26 million individuals – is limited English proficient (LEP).[1] The provision of language access in health care is correlated with better patient outcomes, better compliance with instructions such as prescriptions and hospital discharge orders, and greater patient satisfaction.[2]

Given the strong desire across the federal government to address racial disparities and social determinants of health, improving awareness of the right of language access services, and how to access them, is important. For example, patients with LEP who are provided with interpreters make more outpatient visits, receive and fill more prescriptions, and report a high level of satisfaction with their care. Additionally, these patients do not differ from their English proficient counterparts in test costs or receipt of intravenous hydration and have outcomes among those with diabetes that are superior or comparable to those of English proficient patients.[3]

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[1] See American Community Survey, Language Spoken at Home, Table S1601 – 2019: ACS 5-Year Estimates Subject Tables, https://bit.ly/3nBFPci.

[2] See, for example, Karliner et al., "Convenient Access to Professional Interpreters in the Hospital Decreases Readmission Rates and Estimated Hospital Expenditures for Patients With Limited English Proficiency," *Medical Care,* March 2017, vol. 55, issue 3, pp. 199-206.

[3] Truda S. Bell et al., *Interventions to Improve Uptake of Breast Screening in Inner City Cardiff General Practices with Ethnic Minority Lists*, 4 ETHNIC HEALTH 277 (1999); Thomas M. Tocher & Eric Larson, *Quality of Diabetes Care for Non-English-Speaking Patients: A Comparative Study*, 168 WESTERN J. OF MEDICINE 504 (1998); David Kuo & Mark J. Fagan, *Satisfaction with Methods of Spanish Interpretation in an Ambulatory Care Clinic*, 14 J. OF GENERAL INTERNAL MEDICINE 547 (1999); L.R. Marcos, *Effects of Interpreters on the Evaluation of Psychopathology in Non-English-Speaking Patients*,136 AMERICAN J. OF PSYCHIATRY 171 (1979).

Answers to RFI Questions

Given that NHeLP does not directly provide healthcare, we are providing answers to only selected questions.

1. ***What are the challenges to implementing these methods? Do you believe a new graphic symbol informing people about the availability of language assistance services would increase the rate at which people request language assistance services and thereby increase access to information about health services, programs, and/or products?***

Without effective ways of informing individuals with LEP how to request and access language services, many individuals with LEP do not know that language services are available and never receive information about their rights, do not know how to access interpreters, auxiliary aids and services and do not know how to file a complaint or a grievance.

A universal symbol could readily be included on the first page of documents and notices and the main page (and all subsequent pages) of websites. Currently, many documents that use non-English taglines to communicate about language services do not often include them on the front pages but rather as the last page. We do not believe an individual with LEP would likely look through multiple pages of a document in English to only find a tagline notice is only at the end. Given the importance of informing individuals with LEP about available language assistance services, we believe notification should be the first page that everyone sees, whether on a website or paper or electronic document. This will benefit individuals with LEP who will more readily see that information and obtain assistance.

2. ***What should be considered in the development of a new graphic symbol informing people about the availability of language assistance services in health settings? Please add any specific suggestions you have for the symbol design and usability testing.***

While NHeLP has not been directly involved in the development of graphic symbols, we recommend OMH consider the process utilized in the development of symbols by the "Hablamos Juntos" project, funded by the Robert Wood Johnson Foundation. This projectt

developed graphic symbols for use in hospitals.[4] While we expect a universal symbol would be utilized beyond physical locations, the process can inform OMH's work. The Hablamos Juntos project staff formed a partnership with the Society for Environmental Graphic Design (SEGD) to develop and test the use of graphic symbols. Similar to the Hablamos Juntos project, NHeLP believes that OMH's work must include testing by individuals with limited English proficiency who would be the ultimate users of a universal symbol. This should include not just patients but also individuals who apply for publicly funded programs (*e.g.* Medicaid, Medicare, marketplace), individuals who obtain services from public health departments, individuals who interact with health insurers and managed care plans, and individuals who interact with other aspects of the health care ecosystem.

As noted in the Hablamos Juntos report, "One of the key factors in developing a successful wayfinding system is analysis of the visitor wayfinding experience."[5] We believe OMH's work must similarly involve an analysis of the variety of ways individuals with limited English proficient individuals would encounter a universal symbol – on websites, on paper documents, in a variety of health care entities (*e.g.*, hospitals, clinics, public health departments, Medicaid agencies, private provider offices, nursing homes, family planning clinics, and pharmacies).

Further, any proposed symbol must be tested in a variety of settings and usages to ensure its effectiveness. Stakeholder engagement must include individuals with limited English proficiency in different languages; with different levels of understanding of the U.S. health care system; in different usages including applying for public/private health care, accessing care, requesting language access services in person and by telephone; with different levels of understanding; and with different literacy levels. It should also include engagement of a variety of health care entities who would use the symbol.

Finally, OMH must utilize inclusive design and accessibility principles to ensure that the resulting symbol will be understood not just by a range of individuals with limited English proficiency but also individuals with disabilities who have limited English proficiency as well.[6]

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[4] Hablamos Juntos, *Universal Symbols in Health Care, Developing a Symbols-Based wayfinding System: Implementation Guidebook*, file:///C:/Users/Youdelman/Downloads/segd_hj_00_full_workbook_1.pdf.
[5] *Id.* at ES:4.
[6] *See* SEGD, *Inclusive Design & Accessibility* (Mar. 23, 2019), file:///C:/Users/Youdelman/Downloads/InclusiveDesign_Accessibility_Training%20Module_051219%20(1).pdf.

3. ***What steps do you recommend for implementing, disseminating, and ensuring effectiveness of a new symbol for language assistance services, including utilization by Individuals with LEP, healthcare providers, public health departments, and other entities engaged in health care?***

NHeLP strongly believes that once a universal symbol is developed and tested that OMH, the HHS Office for Civil Rights and indeed all of HHS must embark on a comprehensive, robust education and outreach campaign. This campaign must encompass education of all entities that work in the health care arena – including insurers, hospitals, clinics, pharmacy benefit managers, providers – about the symbol, how best to use it, what policies and services to have in place for individuals with LEP, and to assist in its robust adoption and implementation. The campaign must also include widespread outreach and education to individuals with LEP – in multiple languages – so that they will begin to recognize the symbol, what it means, and how to use it to access language assistance services. Ultimately, the new universal symbol should be as easily recognizable as other common, easily identifiable symbols such as Facebook's "f", Netflix's "N", or Amazon's smile.

We also would recommend the Office for Civil Rights evaluate whether to add any provisions to its Section 1557 regulations regarding usage of the symbol or to disseminate guidance explaining how using the universal symbol can help document compliance with Section 1557 and Title VI. For example, adoption of the symbol – combined with effective education and outreach – could be deemed to satisfy with the language access pieces of the Notice of Availability of Language Assistance Services and Auxiliary Aids and Services. Other agencies within the Department of Health and Human Services should be provided resources to educate the health care providers and entities that participate in their programs. For example, CMS should ensure that Medicaid state agencies and Medicaid, Medicare and CHIP providers all know about the universal symbol and how to best utilize it to improve access to language assistance services. Finally, the federal government should immediately adopt and use the universal symbol on its websites, in its publications, and in all materials that it develops.

4. ***Are there frameworks or standards that should be considered to support the development, testing, implementation, and dissemination of a new symbol for language assistance services?***

NHeLP discussed our suggestions related to testing above (see our answer to Q. 2).

As discussed in our answer to Q. 3 above, NHeLP strongly believes that once a universal symbol is developed and tested that OMH, the Office for Civil Rights and indeed all of HHS must embark on a comprehensive, robust education and outreach campaign.

Conclusion

We have included citations to supporting research, including direct links to the research. We direct OMH to each of the materials we have cited and made available through active links, and we request that the full text of each of the studies and articles cited, along with the full text of our comment, be considered part of the formal administrative record for purposes of the Administrative Procedure Act. If OMH is not planning to consider these materials part of the record as we have requested here, we ask that you notify us and provide us an opportunity to submit copies of the studies and articles into the record.

Thank you for the opportunity to comment on this important issue. If you have further questions, please me at youdelman@healthlaw.org.

Sincerely,

Mara Youdelman
Managing Director, Federal Advocacy