

2011 Washington Medicaid Budget Proposal – Interpreter Services

Physicians and practice staff should be aware that, due to severe budget constraints, the Washington state Medicaid program is scheduled to discontinue its coverage of interpreter services effective March 1, 2011. Absent the state's financial support of interpreter services for Medicaid patients, physicians' practices likely will be faced with direct financial responsibility for interpreters' charges when providing services to those Medicaid patients with limited English proficiency (LEP).

Important: Physicians/practices must make *independent decisions* in responding to this situation; no "joint action" is suggested or implied.

Understanding Interpreter Requirements

To better understand the expectations of physicians' practices in providing services for LEP patients, these resources are recommended:

American Medical Association:

Office guide to communicating with limited English proficient patients

www.ama-assn.org/go/healthdisparities

Note that the AMA guidance in Section 5 describes how physicians can "gauge their obligation to provide language assistance for LEP patients." See also the Office for Civil Rights (below).

WSMA:

Washington Physicians' Guide to Health Law

<http://www.wsma.org/legal-affairs/washington-physicians-guide-to-health-law.cfm>

Physicians Insurance A Mutual Company (for PI insureds):

Overcoming Language Limitations of its Risk Management Manual - Section 3.22 - 3.26

www.phyins.com

Physicians should note that achieving effective communications with LEP patients is essentially a risk management issue. Decisions made should be consistent with guidance offered by your professional liability insurer.

The **Office for Civil Rights** (www.hhs.gov/ocr/) offers this guidance (excerpted here)¹:

Q. How does the guidance affect small practitioners and providers who are recipients of federal financial assistance?

¹ *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Q&A # 5*
<http://www.hhs.gov/ocr/civilrights/resources/specialtopics/lep/policyguidancedocument.html>

A. There is no "one size fits all" solution for Title VI compliance with respect to LEP persons, and what constitutes "reasonable steps" for large providers may not be reasonable where small providers are concerned. Thus, smaller recipients with smaller budgets will not be expected to provide the same level of language services as larger recipients with larger budgets. OCR will continue to be available to provide technical assistance to HHS recipients, including sole practitioners and other small recipients, seeking to operate an effective language assistance program and to comply with Title VI.

Interpreters

Physicians/practices may engage directly the services of qualified medical interpreters, and likely will incur a charge from the interpreter or agency.

Spoken Language Interpreters (agencies contracted with Washington Medicaid)
<http://hrsa.dshs.wa.gov/InterpreterServices/SpokenLanguageVendor.htm>

Other Resources (not an inclusive list)
<http://hrsa.dshs.wa.gov/InterpreterServices/Provider.htm>
<http://hrsa.dshs.wa.gov/InterpreterServices/>

Other options for accessing qualified medical interpreters include:

- Local hospitals
- **Language Line** (www.languageline.com)
- **e-interpreters, Inc.** (www.e-interpreters.com/), based in Everett, WA, offers web-based interpreter services.

“Opt Out” of Medicaid; Termination of Core Provider Agreement

Physicians should be cautious to *not discriminate* against patients seeking care (see WSMA's *Washington Physicians' Guide to Health Law* for further guidance).

While the Washington Medicaid website does state that it is permissible to limit the number of Medicaid patients seen in your practice, excluding a *potential* patient on the basis that he/she would require an interpreter likely would be viewed as discriminatory (<http://www.dshs.wa.gov/provider/newprovider.shtml#provider>).

Therefore, a physician may wish to “opt out” of the Medicaid program, which would require terminating his/her Core Provider Agreement with the Washington Medicaid program (<http://hrsa.dshs.wa.gov/ProviderEnroll/enroll.shtml#provider>) (<http://hrsa.dshs.wa.gov/ProviderOne/Provider%20System%20User%20Manual.htm>).

The Core Provider Agreement notes as follows (*emphasis added*):

8. **Termination.** The department shall deny, suspend, or terminate the Provider's enrollment for cause according to applicable WAC. *Either the department or the Provider may terminate this agreement for convenience at any time upon 30 days written notification to the other.* In the event that funding from state, federal, or other sources is withdrawn, reduced, or limited in any way, the department may terminate this Agreement. If this Agreement is terminated for any reason, the Department shall pay only for services authorized and provided through the date of termination.

Important: If you wish to terminate an *existing* treatment relationship with a Medicaid patient, consult with your professional liability (medical malpractice) insurer for guidance on this risk management issue.