



Language Assistance Programs: A Guide to Understanding California Senate Bill 853

A DrTango White Paper by Dr. Dirk Schroeder

Are you a DMHC licensed, full-service managed care organization or insurance provider in California?

Are you a full-service managed care organization or insurance provider in California that wishes to become DMHC licensed?

If you answered “yes” to either question, you are required by California state law to develop a language assistance program. This White paper will provide you the guidelines to accomplish this.

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Executive Summary

Estimates suggest that there are 6 to 7 million limited English proficient individuals living in California, and more than 40% of Californians don't speak English at home.¹ As a result of this language diversity, there are millions of individuals who are faced with language and cultural barriers when seeking health care and whose quality of care may be jeopardized as a consequence of these barriers.

In 2003, the California legislature passed Senate Bill 853 mandating that all California health plans provide language assistance services to their enrollees with limited English proficiency in order to alleviate these language and cultural barriers. Under the new legislation, the Department of Managed Health Care (DMHC) was charged with formulating the language assistance program regulations and ensuring health plan providers' compliance with those regulations. The legislation stipulates that all vital documents must be translated into threshold languages and interpretation services made available to enrollees at all points of contact. The DMHC will also periodically review health plan providers' language assistance programs to evaluate their compliance and cultural competency.

By July 1, 2008, every health care service plan must file an amendment to its quality assurance program providing its written language assistance program policies and procedures with information and documents demonstrating compliance with the requirements and standards, providing both English and non-English versions. By January 1, 2009, every plan must have established and implemented a language assistance program in compliance with the requirements. Every contract between a health care provider and a plan, that is issued, amended, delivered or renewed on or after January 1, 2009, will require compliance with the plan's language assistance program standards developed.

In this paper, we aim to provide health plans in California with a better understanding of the new language assistance regulations. We provide a summary of the key points of SB 853, present a detailed outline of the program requirements and provide useful resources for choosing translation and interpretation services. Additionally, we have created a detailed checklist of the program requirements to ensure that your plan has the necessary components to receive approval. In a follow-up paper, we will provide additional, specific guidance and "best-practices" for planning and implementing a language assistance program with the ultimate objective of helping plans fulfill the requirements of SB 853 as effectively and cost-efficiently as possible.

Overview

This Paper aims to:

- *Help health care service plans better understand SB 853*
- *Outline language assistance program requirements*
- *Provide useful resources for choosing translation and interpretation services*
- *Provide a checklist of program requirements to ensure all components are addressed in order to receive DMHC approval*

Regulatory Mandate

“The regulations establish requirements for... vital document translation, timely access to interpreter services and quality assurance of interpretation and translation services.”

As a result of the language and cultural barriers faced by persons seeking medical care whose first language is not English, Senator Martha Escutia sponsored a bill to create language assistance programs for Californians of limited English proficiency. In 2003, the California legislature passed SB 853 as an amendment to the Knox-Knee Act requiring the Department of Managed Health Care (DMHC) to ensure that California health plan providers supply language assistance programs to their enrollees with Limited English Proficiency (LEP). Under SB 853, the DMHC must develop regulations that require managed care organizations and insurance plans to assess the number of limited English proficient persons enrolled in their membership and to provide language assistance to those members.

The regulations establish requirements for, among other things, vital document translation, timely access to interpreter services and quality assurance of interpretation and translation services. SB 853 also requires managed care organizations and insurance plans (herein referred to as “health care service plans”) to report to the legislature annually on several cultural competency measures^{2,3}.

Limited English Proficiency (LEP)

A Limited English Proficient (LEP) individual is a person “*who does not speak English as their primary language and who has a limited ability to read, speak, write, or understand English.*”⁴ LEP persons are sometimes defined as anyone who answers **less than “very well”** to the question on the U.S. Census Survey: *How well do you speak English?*⁵

How will this legislation improve health care for enrollees?

Patients who encounter language and cultural barriers when seeking health care are far less likely to be seen for well-patient visits and regular health screenings and often delay seeking medical care when problems arise. As a result, limited English proficient patients often seek care only when conditions become emergent, which can be detrimental to the patient's health and be far more costly. Additionally, when there are information gaps resulting from inadequate interpreting, physicians may be forced to order unnecessary tests to fill in those gaps, which can also drive up costs. Language assistance programs will alleviate the barriers that limited English proficient patients face when seeking health care, increasing their incentive to seek regular medical care, improving their general health and reducing the cost of health care to insurers in the long-term.

Who must comply with SB 853 regulations?

All of California's DMHC licensed, full-service health plans, as well as specialized plans (such as vision or dental plans), will be required to develop and implement language assistance programs. Health care service plans will design their programs based upon their members' needs. A list of plans that must comply with SB 853 is available at: <http://www.dmhc.ca.gov/library/reports/licensing/licensed.pdf>.

Who enforces SB 853 compliance for managed health care plans?

The Department of Managed Health Care (DMHC) is responsible for approving Language Assistance Programs and enforcing their adherence. The DMHC's HMO Help Center will also assess the health care service plans' language assistance programs through their regular surveys and programs assessments. Problems or violations by health care plans will be referred to the DMHC's enforcement unit for evaluation, where the need for fines or penalties will be determined.

How does the approval process work?

The first step in formulating a language assistance program is to determine the language needs within enrollee membership. Health care service plans must determine the number of members in need of language assistance, the languages spoken and level of assistance necessary. They must also submit their language assistance program plans to the DMHC to be reviewed by HMO Help Center staff for approval.

What are the program requirements?

In order to fulfill the requirements of these regulations, health care service plans are required to develop a language assistance plan to identify their language needs and formulate a plan for implementation. Health care service plans should design their programs' plans based upon their members' needs, but must fulfill four minimum program requirements:

1. Standards for enrollee assessment
2. Standards for providing language assistance services
3. Standards for staff training
4. Standards for compliance monitoring

1. Standards for enrollee assessment:

The first program requirement involves describing the health care service plan’s methods for assessing the language needs and demographic profile of the enrollee population. Plans must identify the languages that are likely to be encountered among enrollees and outline the data collection methods used to estimate the number of LEP enrollees and their language needs. A survey to collect data on each individual enrollees’ language needs must also be conducted. Additionally, the plan must outline methods for maintaining effective documentation of enrollee language needs so that data can be generated in a timely manner when requested by the Department.

The regulations stipulate that the number of languages for which full translation and interpretation services must be provided are dependent upon membership demographics. The specific criteria are outlined in Table 1 and are followed by an example in Table 2⁶. (Note: The criteria exclude Medi-Cal enrollment and treats Healthy Families Program enrollment separately.)

Table 1: Language Threshold Criteria

Number of members in a health plan	Top non-English languages into which materials must be translated (minimum)	Additional languages if one of the following thresholds is met (whichever number is less):	
		Percent of total members that belong to one LEP group (Percentage)	Total number of members in an LEP group (people)
> 1,000,000	2 languages	0.75%	15,000
300,000 – 1,000,000	1 language	1.0%	6,000
≤ 299,999	1 language if threshold met	5.0%	3,000

Table 2: Language Threshold Example

Health Plan Provider A			
	Enrollment	Translate	Decision Criteria
Total Enrollment:	565,000		
LEP Enrollment:	30,000		
Spanish:	15,000	yes	Top non-English language
Chinese:	8,500	yes	Meets 6,000 threshold
Vietnamese:	5,700	yes	Meets 1% of total membership threshold
Portuguese:	800	no	Does not meet 6,000 members or 1% of membership
Health Plan Provider B			
	Enrollment	Translate	Decision Criteria
Total Enrollment	250,000		
LEP Enrollment	5,000		
Spanish	2,700	no	Does not meet 3,000 members or 5% of membership
French	2,300	no	Does not meet 3,000 members or 5% of membership

2. Standards for providing language assistance services

The plan for the Language Assistance Program must outline the policies, procedures and methods involved in providing **language assistance services** to its enrollees. Plans should identify:

- All points of contact where language assistance may be reasonably anticipated
- Types of resources needed to provide effective language assistance
- Arrangements planned to provide timely access to language assistance services at all points of contact and at no charge to enrollees
- Process for informing enrollees of availability of language assistance services at no charge to enrollees and how to access language assistance services
- Process for informing contracting providers of the plan's standards and mechanisms for providing language assistance services at no charge to enrollees and for sharing LEP enrollee data with its contracting providers
- Plans for providing language identification for LEP enrollees

Specifically, the plan must outline the following regarding **translation services**:

- List of threshold languages
- List of vital documents to be translated into threshold languages
- Method for translation of vital documents and agencies to be used
- Requirements for ensuring non-English translations are equivalent to English documents
- Methods for informing enrollees of available translated documents
- Standards for ensuring proficiency of translation agency and translators
- Methods for obtaining quality, cost-effective, timely translations
- Standards for ensuring compliance with the requirements of regulations

Additionally, the plan must outline its methods providing **interpretation services**, including:

- List of non-English languages likely to be encountered among enrollees
- Provision of timely interpretation services to all LEP persons at all points of contact
- Range of interpretive services provided
- Processes for providing timely language assistance for LEP enrollees at contracting and non-contracting hospitals, facilities and providers offices
- Intended acquisition of interpreter resources including: hiring staff interpreters, contracting outside interpreters, volunteer interpreters, contracting telephone language interpretation services, etc.
- Standards for ensuring proficiency of interpretive services including documented and demonstrated proficiency in both source and target languages

3. Standards for staff training

Plans must outline methods for adequate training systems for all staff that have routine contact with LEP persons regarding the language assistance program and its integration into new employee orientation. Methods in staff training should include instruction on:

- Knowledge of plan's policies and procedures for language assistance
- Working effectively with LEP persons
- Working effectively with in-person and through video, telephone, and other media
- Staff education on understanding cultural diversity of plan's enrollee population and cultural sensitivity training

4. Standards for compliance monitoring

Health care service plans are responsible for monitoring language assistance programs and making necessary modifications to ensure compliance. The department will evaluate the totality of the language assistance program plan to determine if the program as a whole provides meaningful access to LEP enrollees and may consider factors such as:

- Nature of points of contact
- Availability of translation and interpretation services and professionals
- Variations in cost of language assistance services and impact on affordability of health care coverage
- Plan's implementation of best practices and use of existing and emerging technologies (video interpreting programs, translation software, collaboration with others)

When do the plans have to be submitted, approved and implemented?

- **Within one year** of the effective date of the regulations, the initial enrollee assessment must be completed and enrollee language needs assessed. Language needs assessment must be updated at least once every three years after the initial assessment.
- **July 1, 2008:** Under the current proposed legislation, by this date, health care service plans must have filed an amendment to their quality assurance program containing the written policies and procedures for their language assistance program with information and documents demonstrating regulation compliance (including provider and administrative contracts).
- **January 1, 2009:** Under the current proposed legislation, by this date, health care service plans must have established and implemented a language assistance program compliant with the regulations of the section.

**See checklist in Exhibit 3 for detailed information regarding dates*

Exhibit 1: Frequently Asked Questions

Q: What is the difference between interpretation and translation?

A: Interpretation is the transfer of the spoken word from one language into another, while translation is the transfer of the written word from one language to another language.

Q: Do these regulations prohibit family members from serving as interpreters for enrollees?

A: No. Family members are not banned from serving as interpreters for enrollees under this legislation; however, the availability of free, quality interpretation services should be stressed to members and its use encouraged.

Q: What kinds of language agencies should be used to help implement the language assistance programs?

A: In order to ensure quality interpretation and translation services, it is important to utilize professionals with healthcare interpretation and translation training and experience. You will find that agencies generally specialize in either translation *or* interpretation, but not both, because they are not interchangeable fields. Be sure the agency you consider makes this distinction. In order to reduce costs, produce documents in a timely manner and ensure the quality of the work, it is best to work with companies accustomed to large-scale medical translations.

Exhibit 2: Useful Resources for Choosing Translation and Interpretation Services

The documents listed below are useful guides to help you choose the appropriate translation and interpretation services.

[How to Choose a Language Agency](#)

[California's Standards for Healthcare Interpreters](#)

[Recommendations and Resources for the Translation of Written Documents](#)

[Language Agency Specification and Performance Standards](#)

Exhibit 3: Program Checklist⁶

Program Component	
1.0	<input type="checkbox"/> Enrollee Assessment: Identify number of LEP enrollees and language needs
A	<input type="checkbox"/> Identify non-English languages likely to be encountered
B	<input type="checkbox"/> Survey enrollees to identify LEP language needs and record in enrollees' files
C	<input type="checkbox"/> Identify points of contact where language assistance may be reasonably anticipated
D	<input type="checkbox"/> Identify resources necessary to provide effective language assistance (availability and location)
E	<input type="checkbox"/> Determine threshold languages
F	<input type="checkbox"/> Collect, summarize, and document LEP enrollee data, maintaining confidentiality and allow appropriate disclosure
G	<input type="checkbox"/> Identify demographic characteristics of enrollee population (race, ethnicity, culture, primary language)
2.0	<input type="checkbox"/> Language Assistance Services: Describe methods for providing language assistance
A	<input type="checkbox"/> Identify all points of contact where language assistance may be reasonably anticipated
B	<input type="checkbox"/> Identify resources needed to provide effective language assistance
C	<input type="checkbox"/> Arrangements to provide timely access to language assistance services
D	<input type="checkbox"/> Mechanisms for informing enrollees of availability of language assistance services and how to access them <input type="checkbox"/> Notice of availability of language assistance services and instructions for access in English and top 10 non-English languages must be filed for Department approval by July 1, 2008
E	<input type="checkbox"/> Procedures to promote effective identification of LEP enrollee language needs <input type="checkbox"/> Full service plans provide LEP enrollees with language ID cards <input type="checkbox"/> Maintain 24/7 toll free telephone line for help in arranging language assistance services
F	<input type="checkbox"/> Standards to ensure conformity with LEP rights to grievance system and provision of information to LEP enrollees of rights to file grievance and seek independent medical review
G	<input type="checkbox"/> Process for informing contracting providers of plan's standards for language services, and data sharing
H	<input type="checkbox"/> Processes and standards for providing translation services , including: <input type="checkbox"/> List of threshold languages <input type="checkbox"/> List of vital documents to be translated (consistently and upon request) <input type="checkbox"/> Description of process for vital document translation <input type="checkbox"/> Requirement for non-English translations meet same standards as English language versions <input type="checkbox"/> Requirement that non-standardized vital documents containing enrollee-specific information be provided in English and accompanied by notice of availability of translation and interpretation services available upon request
I	<input type="checkbox"/> Processes and standards for providing interpretation services , including: <input type="checkbox"/> A list of the non-English languages likely to be encountered <input type="checkbox"/> Requirement for provision of interpretation services for plan-produced documents <input type="checkbox"/> Requirement that qualified interpretation services be offered at all points of contact <input type="checkbox"/> Processes for providing timely language assistance for LEP enrollees at contracting and non-contracting hospitals, facilities and providers offices <input type="checkbox"/> Description of arrangements for providing timely interpretation services <input type="checkbox"/> Range of interpretation services provided <input type="checkbox"/> Intended staff hiring/contracting for

interpretation and telephone, videoconferencing, or other telecommunications support

- J** Policies and standards for ensuring proficiency of translation/interpretation personnel, either by criteria or certification, require:
- Documented and demonstrated proficiency in English and target language
 - Fundamental knowledge of health care terms and concepts in both languages
 - Education and training in interpreting ethics, conduct, and confidentiality according to standards of California Healthcare Interpreters Association or National Council on Interpreting in Healthcare

3.0 **Staff Training: Describe methods regarding staff training in language assistance program**

System for training staff who have routine contact with LEP enrollees in language assistance, to be included in new employee orientation

A Training in plan's policies and procedures for language assistance

B Training for effectively working with LEP enrollees

C Training for working effectively with in-person and through video, telephone, and other media

D Staff education on understanding cultural diversity of plan's enrollee population and cultural sensitivity training

4.0 **Compliance Monitoring: Standards for ensuring implementation and adherence to policies**

A Plans for monitoring language assistance program and ensure compliance with regulations

Department will evaluate totality of language assistance program to determine if provides meaningful access to LEP enrollees and may consider factors such as:

- If plan is full service or specialized
- Nature of points of contact
- Frequency of languages encountered
- Type of provider network and methods of health care delivery
- Variations and character of plan's service area
- Availability of translation and interpretation services and professionals
- Variations in cost of language assistance services and impact on affordability of health care coverage
- Plan's implementation of best practices and use of existing and emerging technologies (video interpreting programs, translation software, collaboration with others)

Dental plans, vision plans, and full service plans with specialized dental and vision services with competent and qualified bilingual dental and optometry providers and office staff available to assist LEP enrollee will be in compliance with the regulations

All contracts between health care providers and insurance plans, including specialized plans, issued, amended, delivered or renewed on or after January 1, 2009 must be in compliance with language assistance program and shall require cooperation of provision of information by provider

No plan shall require contracting health care provider to assume financial risk of providing language assistance services unless they were required pursuant to provider contract or the insurance plan and provider have separately negotiated agreement and provider accepted responsibility

No plan shall require contracting health care provider to accept financial risk of providing language assistance as a condition of accepting the provider contract

		<input type="checkbox"/> Every contract between an insurance plan and an entity delegated responsibility for developing, implementing, or overseeing the plan's language assistance program shall clearly specify the respective obligations of the parties, including financial risk and plan's methods for monitoring proper performance
		<input type="checkbox"/> The department will periodically review plan compliance with regulations through use of medical survey process, reviews of consumer grievances and complaints and provider complaints to compliant line, among other things. Department may also periodically request insurers submit information and data regarding enrollee language needs and demographic profile
		Dates for Implementation:
		<input type="checkbox"/> Within one year of the effective date of the regulations, the initial enrollee assessment must be completed and enrollee languages needs assessed and updated at least once every three years after
		<input type="checkbox"/> July 1, 2008: Must have filed an amendment to quality assurance program containing written policies and procedures for language assistance program with information and documents demonstrating regulation compliance (including provider and administrative contracts).
		<input type="checkbox"/> January 1, 2009: Must have established and implemented a language assistance program compliant with section regulations

References:

1. "Policy Update." Rapid Response Network, Latino Coalition for a Healthy California. January 2006.
2. "Questions & Answers" California Language Assistance. DMHC.
3. "Are you speaking my language?" DMHC Press Release. Feb. 2006.
4. US Office of Civil Rights. Frequently Asked Questions about LEP. 2002.
5. "State and Federal Requirments for Language Access." Language Access Advocacy Project California 2004. Asian & Pacific Islander American Health Forum.
6. Title 28, California Code of Regulations. Division 1, Chapter 2, Article 7, Section 1300.67.04: Language Assistance Programs. July 26, 2006.

About the Authors and DrTango Inc

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Dr. Schroeder is an Adjunct (and former-tenured) Associate Professor of Global Health at the Rollins School of Public Health, Emory University where his academic efforts focus on improving health of Hispanic/Latinos in the U.S. He is also the Executive Vice-President and Co-Founder of DrTango, Inc and HispaniCare. DrTango's online marketing, communications and health solutions help managed care organizations, hospitals, and governmental agencies serve the fast-growing Hispanic and multi-ethnic populations. Dr. Schroeder writes and speaks widely on the potential of eHealth to deliver culturally and linguistically-tailored interventions that can narrow the health disparities gap. He is on the board of the Hispanic Health Coalition of Georgia and a technical advisor on multicultural health to HHS, the Robert Wood Johnson Foundation and the National Business Group on Health. He is the author of one book and over 80 scientific articles. Dr. Schroeder has lived and worked in over 75 countries and is fluent in Spanish and Indonesian. He has Doctoral and Masters Degrees in International Health from Johns Hopkins University and a Post-doc from Cornell. He completed his undergraduate work, with honors and distinction, at Stanford University.

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About DrTango Inc and HispaniCare

DrTango Inc is the leading multicultural communications company serving the U.S. healthcare market. The Company provides strategic consulting, translation, multilingual websites, culturally-optimized health applications, and multicultural business strategy solutions to: Kaiser Permanente (Internet Services Group), WellPoint, Catholic Healthcare West, Tenet Healthcare, WebMD, AmeriGroup, Humana, and hundreds of other premier healthcare institutions. The company is actively assisting health plan providers in California develop and implement language assistance service plans in order to comply with SB 853. Please complete and return assessment sheet for future updates and information.

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