

405 CULTURAL COMPETENCY, LANGUAGE ACCESS PLAN AND FAMILY MEMBER-CENTERED CARE

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REFERENCES: 42 CFR 457.1230(a), 42 CFR 457-1201(d), 42 CFR
438.3(d)(4), 45 CFR Part 92, 42 CFR 438.206(c)(2); Section F3, ACOM
Policy 405, Attachment A

PURPOSE

This policy sets forth the Division of Developmental Disabilities' (Division) requirements for Administrative Services Subcontractors (AdSS) in offering accessible and high quality services in a culturally competent manner when providing family and member-centered care, as applicable.

DEFINITIONS

1. "Cultural Competency" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals, that enables that system, agency, or those professionals to work effectively in cross-cultural situations.

- a. Culture refers to integrated patterns of human behavior that include the language, thoughts, communications, actions, customs, beliefs, values, and institutions of racial, ethnic, religious or social groups.
 - b. Culture defines the preferred ways for meeting needs and may be influenced by factors such as geographic location, lifestyle, and age.
 - c. Competence implies having the capacity to function effectively as an individual and an organization with the context of the cultural beliefs, behaviors, and needs presented by consumers and their communities.
2. “Family-Centered” means care that recognizes and respects the pivotal role of the family in the lives of members. It supports families in their natural care-giving roles, promotes normal patterns of living, and ensures family collaboration and choice in the provision of services to the member. When appropriate the member directs the involvement of the family to ensure person-centered care.

3. "Interpretation" for the purpose of this policy means the act of verbally conveying the content and spirit of the original message, taking into consideration the cultural context.
4. "Language Assistance Service" means services including, but not limited to:
 - a. Oral language assistance, including Interpretation in non-English languages provided in-person or remotely by a Qualified Interpreter for an individual with limited English proficiency, and the use of qualified bilingual or multilingual staff to communicate directly with individuals with Limited English Proficiency,
 - b. Written Translation, performed by a Qualified Translator, of written content in paper or electronic form into languages other than English; and
 - c. Taglines.
5. "Limited English Proficiency (LEP)" means individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be

limited English proficient, or “LEP.” These individuals may be entitled to language assistance with respect to a particular type of service, benefit or encounter.

6. “Linguistic Need” means, for the purposes of this policy, the necessity of providing services in the member’s primary or preferred language, including sign language, and the provision of Interpretation and Translation services.
7. “Member” means the same as “Client” as defined in A.R.S. § 36-551.
8. “Qualified Interpreter” means, for the purpose of this policy, an interpreter who via over the phone, a video remote interpreting (VRI) service, or an on-site appearance:
 - a. Adheres to generally accepted interpreter ethical principles and standards of practice, including client confidentiality,
 - b. Is able to interpret effectively, accurately, and impartially, both receptively and expressly, to and from such language(s) and English, using any necessary specialized

vocabulary, terminology and phraseology, considering
cultural appropriateness; and

- c. Has demonstrated proficiency in speaking and
understanding both spoken English and at least one other
language.

9. “Qualified Translator” means for the purpose of this policy, a
translator who:

- a. Adheres to generally accepted translator ethic principles
and standards of practice, including client confidentiality;
- b. Has demonstrated proficiency in writing and understanding
both written English and at least one other written
non-English language; and
- c. Is able to translate effectively, accurately, and impartially
to and from such language(s) and English, using any

necessary specialized vocabulary, terminology and
phraseology, considering cultural appropriateness.

10. "Translation" for the purpose of this policy means the conversion of written communication, while taking into consideration the cultural context, content and spirit of the message, while maintaining the original intent.
11. "Vital Materials" means information, provided to the member, which assists the member to receive covered services through the Arizona Long Term Care System (ALTCS) program. These materials include but are not limited to:
 - a. Member handbooks,
 - b. Notices of Adverse Benefit Determinations,
 - c. Notices of Appeal Resolution,
 - d. Consent forms,
 - e. Member notices,
 - f. Communications requiring a response from the member,

- g. Grievance, appeal, and request for state fair hearing information, or
- h. Written notices informing members of their right to Interpretation and Translation services.

POLICY

A. Cultural Competency Plan

1. The AdSS shall have a comprehensive Cultural Competency program that includes Members with Limited English Proficiency (LEP) and diverse cultural and ethnic backgrounds, disabilities, race, color, national origin, age, and regardless of sex, gender, sexual orientation, or gender identity.
2. The AdSS shall develop a written Cultural Competency Plan (CCP) which includes measurable and sustainable goals.
3. The AdSS' CCP shall describe how care and services will be delivered in a culturally competent manner and shall include all information provided in ACOM Policy 405, Attachment A.

4. The AdSS shall identify a staff member responsible for implementation and oversight of all requirements for the Cultural Competency program and plan.
5. The AdSS shall require its workforce, as well as the workforce of their subcontractors, to adhere to all Cultural Competency requirements as specified in this policy.
6. The AdSS' CCP shall include:
 - a. A description of methods used for evaluating the cultural diversity of its membership to assess needs and priorities to provide culturally competent care to its membership.
 - b. An evaluation of the AdSS network, outreach services, and other programs to improve accessibility and quality of care for its membership.
 - c. A description of the method(s) used for evaluating health equity and addressing health disparities within the AdSS' service delivery.
 - d. A description of the provision and coordination needed for linguistic and disability-related services.

- e. A description of Education and Training, which shall include:
 - i. Methods used to train workforce to ensure that services are provided in a culturally competent manner to members of all cultures.
 - ii. Customized training to fit workforce needs based on the nature of the contacts the AdSS workforce has with providers and or members.
 - iii. Cultural Competency training for the entirety of the workforce during new employee orientation and annually thereafter.
 - iv. Methods used for providers and other subcontractors with direct member contact, which shall include an education program designed to make providers and subcontractors aware of the importance of providing services in a culturally competent manner and understanding of health literacy.

- v. Additional efforts to train or assist providers and subcontractors with how to provide culturally competent services.
- f. The AdSS shall track participation of its workforce in Cultural Competency trainings.

B. TRANSLATION AND INTERPRETATION SERVICES

- 1. The AdSS shall ensure access to oral Interpretation, Translation, sign language, disability-related services, and provide auxiliary aids and alternative formats upon request, and at no cost to the member.
- 2. The AdSS shall provide Translation and Interpretation services that are accurate, timely, and protect the privacy and independence of the individual with Limited English Proficiency (LEP).
- 3. The AdSS shall ensure Translation services are provided by a Qualified Translator, and Interpretation services shall be provided by a Qualified Interpreter.

- a. The AdSS shall always, first offer and encourage use of Qualified Interpreter services. Members are permitted to use an adult accompanying the member with LEP for Interpretation in the following situations:
 - i. When danger is imminent or there is a threat to the welfare or safety of the member, and there is no Qualified Interpreter immediately available; or
 - ii. After receiving the AdSS' offer and recommendation to use a Qualified Interpreter, if the member with LEP still requests the accompanying adult to interpret or facilitate the communication, the accompanying adult agrees to provide the communication assistance, and reliance on the accompanying adult for assistance is reasonable under the circumstances.
- b. The AdSS staff shall advocate for use of Qualified Interpretation services when an adult accompanying the member is providing communication assistance and:

- i. There is a concern that the Interpretation is not accurate; or
- ii. The content of the conversation is potentially inappropriate to be shared or provided with the accompanying adult.
- c. The AdSS shall not permit reliance on a minor for Translation of any documents.
- d. The AdSS shall only permit reliance upon minor children for Interpretation assistance when:
 - i. In an urgent emergency situation when danger is imminent, or there is a threat to the welfare or safety of the member, and
 - ii. There is no Qualified Interpreter immediately available.
- e. The AdSS shall follow up with a Qualified Interpreter to verify information after the emergency is over, in the event that a minor child has been relied upon to provide Interpretation assistance.

4. The AdSS shall provide Translations and Interpretations in the following manner:
 - a. Written member materials of all types shall be translated into Spanish regardless of whether or not the materials are vital.
 - i. Vital Materials shall be made available in the prevalent non-English language spoken for each LEP population in the AdSS's service area.
 - ii. Oral Interpretation services shall not substitute for written Translation of Vital Materials.
 - b. Oral Interpretation services shall be made available at no cost to the member.
 - i. This applies to sign language and all non-English languages, not just those identified as prevalent.
 - ii. Information shall be made available on which providers speak languages other than English.

5. The AdSS shall provide member information materials in compliance with Division AdSS 404.
6. The AdSS shall provide written notices informing members of their right to Interpretation and Translation services free of charge.
7. The AdSS and its subcontractors shall:
 - a. Use licensed interpreters for the Deaf and the Hard of Hearing; and
 - b. Provide auxiliary aids or licensed sign language interpreters that meet the needs of the individual upon request, which include:
 - i. Computer-aided transcriptions,
 - ii. Written materials,
 - iii. Assistive listening devices or systems,
 - iv. Closed and open captioning; and
 - v. Other effective methods of making aurally delivered materials available to persons with hearing loss.

8. The AdSS may contact the Arizona Commission for the Deaf and the Hard of Hearing for a listing of licensed interpreters, information on auxiliary aids and the complete rules and regulations regarding the profession of interpreters in the State of Arizona.

C. CULTURAL COMPETENCY PLAN ASSESSMENT REPORTING

1. The AdSS shall assess its CCP for effectiveness to include modifications based on the assessment. The assessment shall consider:
 - a. Linguistic need,
 - b. Comparative member satisfaction surveys,
 - c. Outcomes for certain cultural groups,
 - d. Translation and Interpretation services and use,
 - e. Member complaints and grievances,
 - f. Provider feedback; and
 - g. Employee surveys.
2. The AdSS shall track and trend identified issues, and identify actions taken to resolve the issue(s).

3. The AdSS shall address in the CCP how it communicates its progress in implementing and sustaining the CCP goals to all stakeholders, members and the general public.
4. The AdSS shall submit the CCP Assessment with ACOM 405 Attachment A.

D. LANGUAGE ACCESS PLAN

1. The AdSS shall submit a Language Access Plan with ACOM 405 Attachment A annually, that indicates how the needs of members with LEP are met.
2. The AdSS shall address each of the following elements in the Language Access Plan:
 - a. **Assessment: Needs and Capacity**

Processes to regularly identify and assess the language assistance needs of its members, as well as the processes to assess the AdSS's capacity to meet these needs according to the elements of this plan.
 - b. **Language Assistance Services**

The AdSS shall provide the established point of contact for members who need Language Assistance Services. The AdSS shall include the process used to ensure that the interpreters used are qualified to provide the service and understand interpreter ethics and client confidentiality needs.

c. Written Translations

Processes to identify, translate, and make accessible in various formats, Vital Materials in accordance with assessments of need and capacity conducted as specified in assessment.,

d. Policies and Procedures

Written policies and procedures that ensure members with LEP have meaningful access to programs and activities.

e. Notification of the Availability of Language Assistance at no cost

Processes to inform members with LEP that language help is available at no cost. The AdSS shall take steps to ensure

meaningful access to its programs, including notifying current and potential members with LEP about the availability of free language help. Notification methods may include multilingual taglines in member materials, and statements on forms including electronic forms such as agency websites. The results as specified in the Needs and Capacity assessment above, should be used to determine the languages in which the notifications should be translated.

f. Workforce Training

Description of employee training to ensure management and staff understand and can implement the policies and procedures of the Language Access Plan.

g. Assessment: Access and Quality

Processes to regularly assess the accessibility and quality of language assistance activities for members with LEP, maintain an accurate record of Language Assistance

Services, and implement or improve LEP outreach programs and activities in accordance with customer need.

h. Stakeholder Consultation

Process for engaging stakeholder communities to:

- i. Identify language assistance needs of members with LEP,
- ii. Implement appropriate language access strategies to ensure members with LEP have meaningful access in accordance with assessments of member need; and
- iii. Evaluate progress on an ongoing basis.

i. Subcontractor Assurance and Compliance

Processes for ensuring subcontractors understand and comply with their obligations under civil rights statutes and regulations enforced by the Arizona Health Care Cost Containment System (AHCCCS), related to language access.

E. FAMILY-CENTERED AND CULTURALLY COMPETENT CARE

The AdSS shall provide Family-Centered care in all aspects of the service delivery system for members with special health care needs.

The additional responsibilities of the AdSS for support of Family-Centered care include :

1. Recognizing the family as the primary source of support for the member's health care decision-making process and making service systems and personnel available to support the family's role as decision makers.
2. Facilitating collaboration among members, families, health care providers, and policymakers at all levels for the:
 - a. Care of the member,
 - b. Development, implementation, evaluation of programs; and
 - c. Policy development.
3. Promoting a complete exchange of unbiased information between members, families, and health care professionals in a supportive manner at all times.

4. Recognizing cultural, racial, ethnic, geographic, social, spiritual, and economic diversity and individuality within and across all families.
5. Implementing practices and policies that support the needs of members and families, including medical, developmental, educational, emotional, cultural, environmental, and financial needs.
6. Participating in Family-Centered Cultural Competency Trainings.
7. Facilitating family-to-family support and networking.
8. Promoting available, accessible, and comprehensive community, home, and hospital support systems to meet diverse, unique needs of the family.
9. Acknowledging that families are essential to the members' health and well-being and are crucial allies for quality within the service delivery system.
10. Appreciating and recognizing the unique nature of each member and their family.