

Language Access Rights: Tips for Advocates Serving Limited English Proficient Older Adults

PRACTICE TIP • Updated July 2024

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Over 17.5 million older adults (65+ years old) speak a language other than English at home, and of those, nearly ten million older adults (65+ years old) are Limited English Proficient (LEP). LEP older adults either do not speak English as their primary language, or they have a limited ability to speak, read, write, or understand English, or both. The number of older adults with LEP will increase in the years to come. For individuals 51-64 years old, 12.2 million are people with LEP.

Federal and state laws protect the vital right to receive information in a language one understands. However, many barriers make it difficult for older adults to assert these rights, impairing their ability to understand their healthcare and make decisions. This ultimately leads to poorer health outcomes and other inequities. This Practice Tip offers advice to advocates and counselors working with older adults with LEP to better assert their language access rights.

- **Language access rights are protected under federal law.** Title VI of the Civil Rights Act of 1964 and its corresponding regulations protect against discrimination on the basis of national origin.¹ The US Supreme Court has interpreted this protected class to include spoken language.² In 2000, President Clinton signed an executive order requiring federal agencies and those receiving federal financial assistance to develop and implement systems to ensure meaningful access to services for LEP individuals.³ State and local laws may offer additional protections.
- **The Affordable Care Act (ACA) offers specific language access protections for healthcare.** The ACA not only expanded coverage but also reaffirmed health care non-discrimination protections. Entities receiving federal financial assistance as well as the U.S. Department of Health & Human Services are prohibited from discriminating on the basis of national origin and several other protected classes in health programs and activities.⁴ They also may be required to offer interpreter services and translate certain materials.⁵ New ACA health care non-discrimination regulations restore specific in-language notice requirements.⁶ These requirements are mirrored in separate guidance for Medicare Advantage and Part D plans.⁷

1 42 U.S.C. § 2000d, et. seq.

2 Lau v. Nichols, 414 U.S. 563 (1974).

3 Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000).

4 42 U.S.C. § 18116.

5 45 C.F.R. § 92.201.

6 45 C.F.R. § 92.1; 45 C.F.R. § 92.11.

7 89 Fed. Reg. 30528-30534 (April 23, 2024).

- **Medicare & You is available in more languages.** The Medicare program can be complicated for older adults to navigate, and the complexities have a real-world impact for older adults getting the health care they need. Medicare & You is the U.S. Government's official guide to Medicare. It is mailed to all Medicare households in September, and it is also available online. The handbook contains information about Medicare benefits, costs, rights, and protections, health and drug plans, and answers to frequently asked questions. It had previously been available in English and Spanish; now, Medicare & You has been translated into [additional languages](#), including Chinese, Korean, and Vietnamese. Advocates can ensure that older adults know they can order the handbook in these additional languages and leverage it as a resource in explaining the Medicare program to older adults.
- **Legal protections and requirements for language access are meaningful when they are utilized.** Older adults may be reluctant to assert their rights for a number of reasons, including not knowing their rights, not wanting to inconvenience others, including providers and advocates, or feeling more comfortable with a loved one interpreting, even if that person is not qualified. Advocates serving older adults with LEP should counsel them on the importance of language access and interpreter services. Advocates should also remind older adults to request interpreter services in advance and that their appointment might take more time because of interpretation. When language access is denied, advocates can work with older adults with LEP to file a complaint to try to remedy the issue.
- **Language access is an important component of culturally competent services.** Providing language access is part of a larger framework of culturally competent and person-centered care. When advising an older adult looking for a provider, consider assisting them with screening for culturally competent services as well. For example, ask questions about a provider's understanding of different cultural interpretations of care and wellbeing and whether culturally appropriate meals are offered.

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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