

2020

CALIFORNIA LANGUAGE ASSISTANCE PROGRAM

Report of Health Insurer Compliance

Seventh Biennial Report to the Legislature
January 2018 – December 2019



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INTRODUCTION

In 2003, the California Legislature passed Senate Bill 853 to ensure that limited-English proficient (LEP) and non-English speaking Californians have meaningful access to language assistance services when obtaining health care. Pursuant to this law, codified in California Insurance Code (CIC) sections 10133.8 and 10133.9, the California Department of Insurance (Department) developed Language Assistance Program (LAP) regulations (Title 10, California Code of Regulations sections 2538.1-2538.8) to establish standards and requirements for health insurers to provide insureds with appropriate access to translated written materials and oral interpretation services. Every two years, the Department surveys health insurers to monitor compliance with these requirements, then reports the results, along with the results of other audits and reviews, to the Legislature.

This report covers the period from January 1, 2018 to December 31, 2019. 134 insurers submitted 2018-19 surveys. This report reviews survey results from the 18 health insurers with the largest number of covered lives in California, referred to in this report as “major insurers.” The major insurers represent over 90% of the health insurance market regulated by the Department. This report also makes recommendations to health insurers to improve their LAP, discusses results of other audits and reviews, and examines whether insurers comply with the recently passed Senate Bill 223.

This report focuses on the survey period of 2018-19; however, with recent telehealth requirements and increased medical services delivered by telehealth, insurers and consumers need to be made aware that interpretation services continue to be important and shall be provided with telehealth services without patient cost-sharing for medically appropriate care from a qualified provider. The Department will survey insurers on their provision of language assistance with telehealth services in our next report.

It should be noted that this report evaluates how insurers comply with California’s LAP law, which requires insurers to provide language assistance services for limited-English-proficient (LEP) individuals. Other state and federal laws address the provision of aids and services to assist communication for individuals with disabilities. Insurers and health care providers should determine their legal obligations to assist those with disabilities and work to provide all Californians with appropriate communication assistance for their medical treatment and health insurance needs.

LAP REQUIREMENTS & SURVEY RESULTS

The Department surveyed health insurers regarding the following LAP requirements:

- Assessing the linguistic needs of the insured population;
- Translating vital documents into threshold languages;
- Providing individual access to oral interpretation services;
- Providing notice of availability of language assistance services to insureds;
- Monitoring and providing information to network providers;
- Training staff in required language services and how to access them; and
- Evaluating the health insurer’s LAP.



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Assessing the Linguistic Needs of the Insured Population

Every three years, health insurers must survey their entire California insured population to determine their preferred spoken and written languages. The results of this survey determine the health insurer's threshold languages (defined in subdivision (b) of Section 2538.2 of Title 10 of the California Code of Regulations).

Survey Results: All major insurers either surveyed their insured populations within the last three years or conduct ongoing surveys. Common methods include mailing surveys, online surveys, using census data, and documenting language preference during phone calls and when insureds register online.

Translating Vital Documents into Threshold Languages

Health insurers must translate vital documents into threshold languages. Vital documents include letters, notices, summaries of benefits and coverage, and other documents containing important information. For vital documents that contain insured-specific information, health insurers must notify insureds of the availability of translation services, and if requested, must provide the translated documents within 21 days.

Survey Results: Most major insurers translate vital documents into threshold languages and have systems in place to translate vital documents with insured-specific information when requested. Two major insurers reported having no threshold languages, but one voluntarily translates some documents into Spanish.

Individual Access to Oral Interpretation Services

Upon request, health insurers must provide interpreters at all points of contact, in a timely manner, at no cost to insureds.

Survey Results: All major insurers have systems in place to provide interpretation services to insureds when speaking with the insurer, and to ensure interpreter services are available to insureds when accessing network providers.

Notice of Availability of Language Assistance Services

Health insurers must notify insureds of the availability of free interpretation and translation services at all points of contact. The notice must be included in all welcome and renewal packets, and with vital documents.

Survey Results: All major insurers include the required notice in welcome and renewal packets and with vital documents. Some include the notice in other mailings and in emails to insureds.

Monitoring and Providing Information to Network Providers

Health insurers must monitor provider compliance with the insurer's LAP standards and must periodically provide information to providers regarding the ethnic diversity of the insured population as well as any LAP-related strategies.

Survey Results: All major insurers monitor provider compliance with the insurer's LAP standards. Methods include reviewing language assistance requests and grievances and conducting satisfaction surveys. Most major insurers reported providing diversity information to providers, generally through provider manuals, newsletters, bulletins, and/or provider web portals. No major insurer reported providing LAP-related strategies to providers.



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Staff Training, Recruitment, and Retention

Health insurers must provide regular training about language services and the diverse needs of the insured population to all employees who have routine contact with insureds. Health insurers must also make efforts to recruit and retain a diverse workforce.

Survey Results: All major insurers have LAP training programs for employees. Most require re-training on a regular basis and have active recruitment programs to hire multicultural and multilingual employees.

Evaluating the Health Insurer's Language Assistance Program

Health insurers must evaluate their LAP using processes such as analyzing complaints and satisfaction survey results. Health insurers must also evaluate the effectiveness of specific aspects of their LAP, including documenting and responding to language assistance requests, whether their LAP meets their insured population's needs, and whether the resources for language assistance identified in policies and procedures are current and available.

Survey Results: All major insurers use customer surveys, grievances, and internal audits to evaluate their LAP. Many reported auditing third-party administrators and interpretation vendors as part of their evaluation process.

RECOMMENDATIONS TO INSURERS

The Department recommends that health insurers incorporate the following practices in their LAP:

- Use multiple methods to assess the linguistic needs of the insured population. This can include documenting language preference at application and when speaking over the phone, as well as surveying electronically and by mail.
- Conduct language assessment and insured satisfaction surveys in multiple languages, not just English, and track progress through scalable metrics.
- Measure interpreter need, access, and quality of interpreter and language services in medical care and patient navigation through "secret shopper" testing.
- Periodically review all standardized documents to ensure appropriate translations are current and up-to-date.
- Train staff at least annually on LAP requirements and how the insurer provides LAP services to insureds.
- Have active recruitment programs to hire multicultural and multilingual employees. This can include utilizing diversity job boards, job fairs, and recruiting from diverse organizations and universities.
- Ensure that language assistance is available to insureds for their telehealth medical appointments. The use of telehealth has increased greatly in 2020 and 2021 due to the COVID-19 crisis, and telehealth will continue to be a primary way for providers to deliver services in the future. The Department will add questions regarding telehealth and language assistance in our upcoming 2021 survey of insurers.



OTHER AUDITS AND REVIEWS

In addition to the biennial survey, the Department evaluates insurer compliance with the LAP regulations by reviewing complaints submitted to the Department's Consumer Complaint Center and results of on-site examinations performed by the Department's Market Conduct Division.

Consumer Complaint Center

The Department's Consumer Complaint Center is responsible for gathering and responding to consumer inquiries and complaints regarding insurance company activities. The Consumer Complaint Center received 158,685 calls last year. During this reporting period, the Consumer Complaint Center received no LAP-related complaints.

Market Conduct On-Site Examinations

The Department's Market Conduct Division enforces insurance laws by investigating consumer complaints against insurers and conducting on-site examinations of insurer claims and underwriting files. Additionally, as required by law, the Division's Consumer Services & Market Conduct Branch examines all licensed insurance companies at least every five years. The Market Conduct Division currently has seven health insurers, five of which are major insurers, under examination and has found no violation of LAP-regulations.

SENATE BILL 223 UPDATE

Senate Bill 223 (October 13, 2017) revised CIC § 10133.8 and adopted CIC § 10133.11, adding requirements regarding language assistance services and providing notices to insureds. The 2019 LAP Data Call asked health insurers to describe how they comply with the following requirements:

Vital Documents Containing Insured-Specific Information

A health insurer subject to CIC 10133.11¹ shall include with vital documents containing insured-specific information a written notice of the availability of interpretation services in the top 15 languages spoken by LEP individuals in California as determined by the Department of Health Care Services (DHCS).

Survey Results: Nearly all major insurers provide the 15-language notice in vital documents that contain insured-specific information. One insurer acknowledged noncompliance and confirmed that it will revise its notice.

Interpreter Qualifications

Interpreters must meet the following minimum qualifications:

- Demonstrated proficiency in English and the target language;
- Knowledge in English and the target language of health care terminology and concepts; and,
- Adherence to generally accepted interpreter ethics principles, including client confidentiality.

Survey Results: Most, if not all, major insurers contract with vendors to provide interpretation services. Most demonstrated compliance by describing or submitting their vendors' policies regarding interpreter qualifications. One major insurer failed to do so. The Department followed

¹ An insurer is subject to CIC 10133.11 if it has not received a waiver pursuant to CIC 10133.11(c).



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up with this insurer, reiterating the applicable law and outlining expectations for compliance going forward.

Notice of Language Assistance Services and Nondiscrimination

An insurer shall notify insureds and members of the public of the following information upon enrollment and renewal, in the evidence of coverage and outreach material, and on the insurer's website:

- Availability of language assistance services in the top 15 languages spoken by LEP individuals in California as determined by the DHCS;
- Availability of auxiliary aids;
- The insurer does not discriminate; and,
- How to submit a complaint to the insurer, the Department, and the U.S. Department of Health and Human Services Office for Civil Rights.

Survey Results: Most major insurers comply. Some major insurers' websites omit certain notices, including the insurer's full contact information and/or how to submit a complaint with the Department. The Department instructed these insurers to make the necessary changes.

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