

2016

CALIFORNIA LANGUAGE ASSISTANCE PROGRAM

Report of Health Insurer Compliance

Fifth Biennial Report to the Legislature
January 2014 – December 2015



Dave Jones
Insurance Commissioner



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EXECUTIVE SUMMARY

The California Department of Insurance compiles a Language Assistance Program (LAP) report every two years and submits the report about health insurer compliance with the LAP regulations to the Legislature. This report covers the period January 1, 2014 to December 31, 2015. 121 health insurers were identified as subject to the Language Assistance Program Data Call for the 2014-15 reporting cycle. As of the date of this report, 112 insurers completed and submitted their 2014-15 LAP Report. Eight insurers had very few or no covered persons and were not required to report. One new insurer was granted an extension of time to develop and implement an LAP Plan.

The report includes a detailed review of the LAP Reports from the 15 health insurers with the largest number of covered lives, which make up 86% of the health insurance market and are referred to as the “top insurers” in this report. In addition, the Department conducted compliance reviews of the LAP Reports submitted by the remaining health insurers, responded to requests for assistance from insureds, and conducted compliance examinations of insurers.

The comprehensive review of the top insurers indicates that all 15 have:

- Completed the initial survey of their insured population.
- Identified their threshold languages and translated the vital documents into the top one or two languages as required.
- Developed systems to provide interpretation services when requested.
- Provided information to their network of health care providers through websites, newsletters and various other modalities.
- Used the Notice of Availability of Language Assistance Services to inform insureds of the availability of language services.

Areas of improvement noted for health insurers in LAP compliance are:

- Increasing the response rates of insureds to the language survey.
- Including the Commissioner’s Notice of Availability of Language Assistance Services with all required documents at required intervals.
- Improving the provision of LAP information and responsibilities to health care providers.



INTRODUCTION

In 2003, the California Legislature passed Senate Bill 853 to ensure that limited-English proficient (LEP) and non-English speaking health consumers would be provided with meaningful access to interpreters when accessing their health care. SB 853 also required insurers to translate vital documents. Pursuant to this law, codified in Insurance Code sections 10133.8 and 10133.9, the Department of Insurance developed regulations (Title 10, California Code of Regulations sections 2538.1-2538.8) that require all California health insurers to:

- ◆ Survey the language preferences and assess the linguistic needs of the insured population;
- ◆ Translate vital documents into threshold languages as indicated;
- ◆ Provide individual access to interpretation services as requested;
- ◆ Provide a Notice of Availability of Language Assistance Services to all insureds;
- ◆ Inform health care provider networks about required interpretation services;
- ◆ Provide educational materials to insureds regarding language services;
- ◆ Train insurer staff in required language services and how to access them;
- ◆ Evaluate their Language Assistance Program; and,
- ◆ Report to the Department as required.

The Department of Insurance is required to report to the Legislature every two years on health insurer compliance with the regulations. This Report covers the period January 1, 2014 - December 31, 2015. The information in this Report is based upon a detailed review of the reports from the top 15 health insurers with 86.11% of the health insurance market, compliance reviews of over 100 additional health insurer reports and collection of data from the Consumer Services Division regarding complaints.



PART I: LANGUAGE ASSISTANCE PROGRAM REQUIREMENTS & SUMMARY OF INSURER REPORTS

Survey the Language Preferences & Assess the Linguistic Needs

The first element of the Language Assistance law is to identify the preferred written and spoken language of each insured. Every health insurer is required to survey their entire California insured population every three years to determine their preferred spoken and written language. If the entire population is not surveyed, the insurer shall use a statistically valid survey methodology. The results of the survey determine whether vital documents, as defined in the regulations, shall be translated into non-English languages (threshold languages) based upon the criteria established in the statute.

Summary of Insurer Surveys:

All of the top 15 health insurers completed their initial survey of the insured population. The Department is working with insurers to ensure that follow up surveys will be completed as required.

Translate Vital Documents into Threshold Languages

The insurer translates vital documents into the threshold languages. Translation means the conversion of a written document from English to a non-English language. The list of vital documents includes applications, consent forms, letters, notices related to denials or termination of services, and documents that require a response from the insured. The insurer shall also send its insureds the Notice of Availability of Language Services indicating that the insured may request a copy of vital documents translated into his/her preferred written language. The insurer shall provide the translated document to the insured within 21 days of the request.

Summary of Insurer Translation of Vital Documents:

All of the top insurers reviewed identified their threshold languages and translated the vital documents into the top one or two requested languages according to the thresholds provided in the regulations. Most have contracted with language/translation companies to provide translation services.



Table 1: Criteria for Threshold Languages

Number of California Health Insured Population	Number of Insurers Meeting Criteria	Minimum Number of Non-English Languages Required	Additional Threshold Languages if criteria is met (whichever is less)	
			Percent of total insureds requesting a language	Total Number of Insureds requesting a language
Greater than 1,000,000	2	2 non-English languages	0.75%	15,000
300,000-1,000,000	10	1 non-English language	1.0%	6,000
Less than 300,000	109	“A” non-English language if thresholds are met	5.0%	3,000

Oral Interpretation Services

Every insured is entitled to “individual access to interpretation services” when receiving medical treatment. Interpretation services are the conversion of oral words from one language to another or the reading of a document written in English into a non-English language. Upon request, a health insurer shall provide an insured with an interpreter in any language in a timely manner, without cost, to speak with the insurer. Insurers shall have in place a system for providing interpreters to insureds at all points of contact with the insurer. If an insured requests an interpreter when accessing his or her health care, the insurer must provide or arrange for an interpreter.

Summary of Insurer Interpretation Services:

All of the top insurers reviewed have systems in place to provide interpretation services to insureds when speaking with the insurer, and most have set up requirements for interpreter services to be arranged with network providers.



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Notice of Availability of Language Assistance Services

Each insurer is required to notify all insureds of the availability of free interpretation and translation services at all points of contact when they access their health care and when communicating with their insurer. The Department developed a Notice that insurers are required to use for this purpose. The Notice is translated into thirteen non-English languages and contains wording developed during the regulatory process by a collaborative working group of stakeholders, advocates, health insurers and professionals. This Notice must be included in all welcome and renewal packets, letters, correspondence, brochures, newsletters, outreach and marketing materials, and any other materials sent to insureds.

Summary of Insurer Notice to Insureds:

All of the top insurers initially provided a copy of the required Notice with insurer specific information included. Most current reports indicate "No Change" regarding the Notice requirement. Several insurers indicate that the required Notice is provided only with vital documents.

Notice to Health Care Provider Networks

Insurers are required to inform their network of health care providers regarding the Language Assistance requirements that an interpreter shall be provided to an insured in any language, in a timely manner, and without cost to the insured. An insurer may negotiate with its network providers regarding the cost and provision of interpreter services to insureds. However, the insurer is ultimately responsible for bearing the costs and handling complaints from their insureds regarding the provision of interpreters when accessing their health care.

Summary of Insurer Notice to Providers:

Insurers initially notified their networks about the LAP law and requirements. Since the inception of the program, all of the top insurers have provided information to their network providers through websites and newsletters. Education of network providers regarding the specific details of the interpreter requirements remains an ongoing issue for insureds and the stakeholder community.



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Educate Insureds Regarding Language Services

The insurer is responsible for providing information to their insureds about the language services that are available including interpretation and translation services. This information shall be provided regularly, in various formats, and clearly state what services are available and how to access those services.

Summary of Insurer Education for Insureds:

Insurers report using the required mailings of the Notice of Availability of Language Assistance Services as the primary means to inform insureds about their language services. The top insurers all have information on their websites. Several use additional mailings to insureds to provide information about language services.

Staff Training, Recruitment & Retention

Insurers are required to provide regular training about language services and the diverse needs of the insured population to all employees who have routine contact with insureds. Insurers are also required to recruit and retain employees who encourage workforce diversity. The goal is a multi-cultural/multi-lingual workforce.

Summary of Insurer Staff Training, Recruitment & Retention:

All of the top insurers have LAP training programs for employees. Most require re-training on a regular basis. In today's health insurance marketplace, the majority of insurers have active recruitment programs to hire multi-cultural/multi-lingual employees.



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Evaluate Insurer's Language Assistance Program

All health insurers are required to evaluate the provision of language services to their insured population. The insurer shall review complaints and grievances, requests for language services, whether their LAP meets the language needs of their insured population, and whether the resources and plans for providing language services are current and available.

Summary of Insurer Evaluation of the LAP:

All of the top insurers use customer surveys, complaints, grievances and internal audits to evaluate their LAP. Many insurers using a contracted interpreter service receive reports from the contractor that are part of their evaluation process. Several insurers have in-house quality improvement programs. Others have a Cultural and Linguistic Unit or Compliance Unit that administers the LAP and handles evaluation.

Insurer Reporting to Department of Insurance

All health insurers are required to complete the biennial LAP Data Call report every two years. The report includes two sections: Section 1 is the Cultural Appropriateness Report that requests information required by statute; Section 2 is an LAP Update Report that collects additional information about the status of LAP activities that are required to be conducted on a regular basis.

Summary of Insurer Reporting:

121 health insurers were identified as subject to the Language Assistance Program Data Call for the 2014-15 reporting cycle. As of the date of this report, 112 insurers completed and submitted their 2014-15 LAP Report. Eight insurers had very few or no covered persons and were not required to report. One new insurer was granted an extension of time to develop and implement an LAP Plan.



PART II: MONITORING HEALTH INSURER COMPLIANCE

Overview of Health Insurer Compliance Monitoring

A three-part process was used to review the Language Assistance Programs of all California health insurers: 1) Market Conduct on-site examinations; 2) Review of complaints received on the Consumer Hotline; and, 3) Review of information submitted in the biennial Data Call Reports.

The Department's Consumer Services & Market Conduct Branch enforces applicable insurance laws by investigating individual consumer complaints against insurers and on-site examinations of insurer claims and underwriting files. All licensed insurance companies are required by law to be examined at least once every five years. One hundred forty-four exams were conducted in 2014.

The Department's Market Conduct Division focuses on ensuring that all California consumers are treated fairly by insurers and insurers are selling and servicing policies in compliance with law. During this reporting period, the Market Conduct Division conducted examinations of four health insurers, all of which are currently in progress. To date, no violations of LAP statutes and regulations were identified in these exams. As required by the regulations, suggestions for improvement and best practices are shared with the insurers.

The Department's Consumer Services Division oversees the Department's Consumer Hotline, which received over 175,000 calls last year. During this reporting period, the Consumer Hotline did not receive any complaints of insurers not providing an interpreter or a translated document in a timely manner when requested.

In addition, the Department's Consumer Services Division has a unit of dedicated health insurance consumer service officers handling questions regarding how to get an interpreter when receiving medical treatment or how to request a translated document. If a consumer complains that a medical provider will not provide an interpreter as requested, the Department will refer them to their insurer for resolution since the Department does not have regulatory oversight of health care providers in an insurer's network. However, the consumer is strongly advised to follow up with the Consumer Hotline to lodge a complaint if the insurer does not resolve the issue in a satisfactory and timely manner.



Guidelines for Review: Categories & Priorities

The annual Health and Disability Insurance (HDI) Data Call provides the list of Class 06 Licensed Disability insurers with active health insurance policies. The 2015 HDI Data Call identified 121 insurers that are subject to the Language Assistance Program requirements. These policies include a wide array of individual and group health insurance as well as specialized health insurance policies that provide covered benefits in a single specialized area of health care, such as dental, vision, behavioral health, and Medicare supplement insurance.

Insurers are assigned to one of two categories: Category A includes 102 insurers who have participated in the LAP and provided biennial reports in past years. One new Category A insurer has been granted an extension. Category B includes one insurer who has participated in the LAP and provided biennial reports. The number of policyholders and prior reporting history further prioritized health insurers.

Category A - Priority 1 is assigned to 15 companies with over 100,000 insureds that have been active in the LAP since its inception.

Category B - Priority 2 is assigned to one company that has been active in the LAP since its inception.

The volume of questions from insurers with small numbers of policyholders about the LAP requirements prompted the Department to create an Alternate Report Method (ARM) for insurers with less than 500 policyholders. The purpose of the ARM reporting is to reduce the reporting requirements for companies with close to zero percent (0%) of the market share of health insurance, that are unlikely to meet the translation thresholds and do not plan on marketing health insurance in the future. In 2015, 8 companies filed ARM reports.

The LAP statutes provide that the Commissioner shall ensure that the LAP reporting does not duplicate other required reporting by insurers. The majority of the insurers granted the ARM reporting are Category B insurers who have never reported in the past. Very few Category A insurers requested reduced reporting since they are already familiar with the LAP report requirements and have established their reporting methodology.



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Table 2: Summary of LAP Reporting

121 INSURERS REQUIRED TO REPORT	Number Reported	Number Not Reported	Comments
Category A - Full Report	102	-0-	15 Reviewed
Category A-ARM Alternate Report Method (Less than 500 insureds)	9	-0-	
Category B - Full Report	1	-0-	
Reporting Extension (Category A)	1	-0-	Extension Granted to Ace American Ins. Co. (NAIC 22667)
Exempt/Excluded No Report Required	8	-0-	Companies were excluded due to small or no business
TOTALS	121	0	



PART III: REVIEW OF HEALTH INSURER COMPLIANCE

General Observations

In reviewing the 15 largest health insurers participating in the Language Assistance Program, the Department found all 15 to be providing language services to their limited and non-English speaking insureds. Several insurers have exceeded the requirements in one or several areas, which are highlighted as best practices in the next section.

Most insurers have:

- Completed the initial survey of their insured population.
- Identified their threshold languages and translated vital documents into the top one or two requested languages.
- Developed systems to provide interpretation services to the insureds.
- Included the Commissioner's Notice of Availability of Language Assistance Services with all vital documents sent to insureds.
- Provided information to their network of health care providers through websites, newsletters and various other modalities.

Department goals:

- Identify methods to increase the response to the language survey by insureds such as sending a LAP language survey as a stand-alone document without additional information requested such as race, ethnicity, age, etc.
- Ensuring that the Commissioner's Notice of Availability of Language Assistance Services is sent to every insured with required documents at required intervals.
- Ensuring that health care providers are informed of the LAP requirement to provide interpreters to patients upon request.
- Requiring staff training and education for all staff and repeating at regular intervals.

Health Insurer Best Practices

Best practices implemented by insurers are described in the Language Assistance Program (LAP) Reports. These best practices exceed the basic requirements of the statute and regulations. We recommend all California health insurers adopt these practices.



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Survey of Insured Population/Collection of Data:

- Several insurers sent Surveys in Spanish and English. One insurer sent the Survey in Spanish, Chinese, Tagalog, Korean, Japanese and Vietnamese. While not required by the regulations, this significantly increased the response rate from insureds. Insureds who do not read English are less likely to respond to an English-only Survey.
- Some insurers used various methods to survey the insured population including mailing postcards, using existing language data and contracting with a database vendor.

Translation of Vital Documents:

- Some insurers use independent accredited vendors for translation services. These vendors often have extensive qualification requirements for translators. The vendors also periodically review translated documents for accuracy.

Interpreter Services to Insureds:

- Some insurers arrange for interpreter services so that health care providers can directly access the insurer's interpreters; they do not have to route the requests through the insurer. This provides a fast turn-around (45-seconds) with the interpreter services provided in a timelier manner to the insured.

Notice of Availability of Language Assistance Services/Information to Insureds:

- Some insurers send the Commissioner's Notice with vital documents, including enrollment and renewal packets, certificates of insurance, denial letters, the annual survey, employer kits, claims forms and all emails.
- One insurer requires providers to post the notice prominently at their offices.

Monitoring Compliance by Providers/Provision of LAP Information to Providers:

- Some insurers perform on-site reviews of providers to ensure interpretation services are performed.
- If a provider is non-compliant with the LAP after an insurer counsels the provider, some insurers remove the provider from the provider network.



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- Some insurers deliver LAP information to providers through various methods including newsletters, websites, contracts, manuals, direct mail, meetings, and automated phone messages.
- Some insurers require on-going training for providers regarding LAP requirements and how to access interpreters for their patients.

Education of Insurer Staff/Recruitment of Bilingual/Bicultural Staff:

- Some insurers require annual training and an 80% pass rate.
- Some insurers require LAP trainings for all insurer staff not only staff with routine contact with insureds.
- Some insurers perform random test calls to employees to evaluate each individual's knowledge of the LAP requirements and the insurer's LAP process.
- Some insurers conduct post-test audits to evaluate staffs' understanding of LAP requirements.
- Some insurers use various methods to recruit bilingual/bicultural staff including working with community organizations.

Evaluation of LAP Program:

- Some insurers use a variety of methods to evaluate LAP compliance including customer surveys, complaints and grievance data, contractor reports, on-line monitoring of phone calls, and internal audits.
- Some insurers developed internal Quality Assurance Units to evaluate compliance with the LAP requirements.



CONCLUSION

Overall, the Department found California health insurers actively provide language services to their LEP and non-English speaking insureds. Continuing education of the consumer community, provider networks, and newly licensed health insurers is ongoing. As the provision of health insurance in California is dramatically changing, with new health products being marketed to limited-English speaking communities, the need to provide clear information to all health insurers about required language services has never been more critical. The California Language Assistance Program will continue to provide this information and ensure health insurance compliance with the law.

Download the Report at:

www.insurance.ca.gov

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