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10 CA ADC § 2538.3

10 CCR § 2538.3

Cal. Admin. Code tit. 10, § 2538.3

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 10. INVESTMENT
CHAPTER 5. INSURANCE COMMISSIONER
SUBCHAPTER 3. INSURERS
ARTICLE 12.1. HEALTH CARE LANGUAGE ASSISTANCE PROGRAM
This database is current through 8/8/08, Register 2008, No. 32

§ 2538.3. Language Assistance Program.

(a) By April 1, 2009, every health insurer shall have established and implemented a Language Assistance Program (LAP) that complies with the requirements of Insurance Code sections 10133.8 and 10133.9 and this regulation. The Commissioner shall allow health insurers a reasonable degree of flexibility in the methods by which they achieve compliance.

(b) The LAP shall be documented in a plan with comprehensive written policies and procedures that describe, at a minimum, the following elements: assessment of insureds; provision of language assistance services; staff training; and compliance monitoring. In addition, the policies and procedures shall include the following:

(1) How insureds will be informed of the availability of language assistance services at no charge to insureds and how to access those services;

(2) How contracting providers will be notified of the health insurer's LAP requirements for provision of language assistance services including the notice of the availability of language assistance services;

(3) How a survey of the language preferences and assessment of the linguistic needs of the insured population will be conducted including an explanation of the methodology for collection of relevant data;

(4) How vital documents will be translated into the indicated/threshold languages including standards to ensure the quality and accuracy of the written translation;

(5) How the insurer will provide individual access to interpretation services including an explanation of the standards to ensure the quality and timeliness of oral interpretation services;

(6) A training plan for the provision of adequate and ongoing training regarding the LAP for all health insurer staff who have contact with LEP persons. The training shall include instruction on, among other things, the health insurer's policies and procedures for accessing language assistance, working effectively with LEP persons, working effectively with in-person and telephonic interpreters, and, cultural differences among and diversity of the health insurer's insured population; and,

(7) How the insurer will evaluate the LAP including an analysis of complaints and satisfactions surveys.

(c) Every health insurer shall develop a written notice that discloses the availability of language assistance services to insureds and explains how to access those services.

(1) A copy of this notice shall be included with all vital documents and all new and renewing insured welcome packets or similar correspondence from the health insurer confirming a new or renewed enrollment. The notice of availability of translated vital documents shall

be translated into the threshold languages; however, nothing in this section shall prohibit an insurer from translating the notice into additional languages. A written notice shall also advise LEP insureds of the availability of interpreter services in his/her preferred spoken language at all points of contact.

(2) The Commissioner may develop the notice advising LEP insureds of the availability of language assistance services. Insurer specific information regarding how to access those services shall be provided by the health insurer. If the notice is developed by the Commissioner, it shall reflect that access to oral interpretation services requires informing insureds of the availability of interpreter services in his/her preferred spoken language and that availability of translated vital documents requires informing insured in the threshold languages that vital documents are available in specifically identified threshold languages. Health insurers shall provide the Commissioner's notice to their insureds as specified in these regulations.

(d) Health insurers shall require compliance with their language assistance program developed pursuant to these regulations by every contractor, health care provider, and any network that is contracted to provide health care to insureds. Health insurers who directly contract with health care providers or who lease networks of health care providers shall use these contracts to implement the specific provisions of the health insurer's LAP, seeking amendments to such contracts as needed within a reasonable time of the effective date of these regulations. Health insurers shall retain financial responsibility for the implementation of the LAP except to the extent that delegated financial responsibility has been negotiated separately and incorporated by reference into its contract.

(e) By December 1, 2008, every health insurer shall file their LAPplan with the Commissioner, in accordance with sections 10133.8 and 10133.9 of the Insurance Code.

(1) The plan shall include but is not limited to the written LAP policies and procedures, together with information and documents sufficient to demonstrate compliance with the requirements and standards of Insurance Code sections 10133.8 and 10133.9 and these regulations. The filing shall include the section 10133.8(b)(3)(B)(v) notice to insureds regarding the availability of language assistance services and how to access those services. All material filed with the Commissioner that contains documents in non-English languages shall include the

English version of each non-English document as well as an attestation by the translator stating the qualifications of the translator and affirming that the non-English translation is an accurate translation of the English version.

(2) The Commissioner shall evaluate the totality of the health insurer's LAP to determine whether the program as a whole provides meaningful access for LEP insureds. This evaluation shall include a review of the information obtained from health insurer's biennial reporting to the Commissioner as required by these regulations and may consider relevant operational and demographic factors, including but not limited to:

(A) The nature of insureds points of contact;

(B) The frequency with which particular languages are encountered including specific challenges encountered in providing meaningful access and the process by which insurers address these challenges;

(C) The type of provider network or networks and methods of health care service delivery;

(D) The variations and character of a health insurer's service area;

(E) The availability of translation and interpretation services and professionals;

(F) The health insurer's implementation of best practices and utilization of existing and emerging technologies to increase access to language assistance services, such as video interpreting programs, language translation software, collaboration with other health insurers to share a pool of interpreters, and other methods and technologies.

(3) The Commissioner shall periodically review health insurer compliance with the standards and requirements of section 10133.8 and 10133.9 of

the Insurance Code and these regulations by methods that may include, but are not limited to, market conduct exams, reviews of consumer grievances and complaints and health provider complaints to the Department of Insurance. The Commissioner may also periodically request that health insurers submit information and data regarding insureds language needs and demographic profile.

<General Materials (GM) - References, Annotations, or Tables>

Note: Authority cited: Sections 10133.8 and 10133.9, Insurance Code. Reference: Sections 10133.8 and 10133.9, Insurance Code.

HISTORY

1. New section filed 9-19-2007; operative 10-19-2007 (Register 2007, No. 38).

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