Health Plan Compliance with Language Assistance Requirements

Biennial Report to the Legislature
January 2023 – December 2024

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EXECUTIVE SUMMARY

The Department of Managed Health Care (DMHC) protects consumers' health care rights and ensures a stable health care delivery system. As part of its mission, the DMHC licenses 140 full-service and specialized health plans that provide health, behavioral, dental, vision, chiropractic, acupuncture or employee assistance services to over 29 million enrollees.

The DMHC reports biennially to the Legislature on health plan compliance with the language assistance requirements of Health and Safety Code section 1367.04 and its accompanying regulations, section 1300.67.04 of Title 28 of the California Code of Regulations.[1]

Rule 1300.67.04, which health plans were required to fully comply with by January 1, 2009, requires California health plans, including specialized health plans,[2] to provide limited English proficient (LEP) enrollees with language assistance services, including translation and interpretation services.[3] The DMHC Office of Plan Monitoring monitors health plans' compliance with the statutory and regulatory requirements as part of its routine medical survey process, which occurs at least every three years for each DMHC-licensed health plan. In addition, the DMHC tracks complaints filed with its Help Center to identify trends and compliance issues.

This biennial report covers the period from January 1, 2023 through December 31, 2024, and includes 30 full-service and specialized health plans which the DMHC surveyed during the reporting period. During the medical survey process, the DMHC identified 35 deficiencies by health plans in meeting language assistance requirements and required the deficient health plans to implement corrective action. The DMHC Help Center received 55 written consumer complaints and 56 inquiry phone calls regarding language assistance during the reporting period.

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[1] Hereinafter, unless otherwise stated, all references to "Section" shall mean sections of the Health and Safety Code and all references to "Rule" shall mean sections of the Code of California Regulations, Title 28.

[2] Specialized health care service plans provide a single specialized area of health care, such as dental services, chiropractic services, or vision services.

[3] The term "translation" is defined as replacement of a written text from one language (source language) with an equivalent written text in another language (target language), and "interpretation" means orally expressing accurately and with appropriate cultural relevance in a target language something heard or read in a source language. (Rule 1300.67.04(b)(2), (6).)

INTRODUCTION

In 2003, the California Legislature passed Senate Bill 853, enacting Health and Safety Code section 1367.04, to improve health care access for LEP individuals enrolled in California health plans. Section 1367.04 directed the DMHC to develop and adopt regulations, no later than January 1, 2006, that established standards and requirements to provide enrollees with access to language assistance services. Section 1367.04 set forth several specifications and parameters required to be included in the regulations.[4] Pursuant to this legislation, the DMHC promulgated Rule 1300.67.04, which requires health plans to:

- Assess the linguistic needs of enrollees;
- Provide translation and interpretation services to enrollees;
- Train staff in effectively providing language services to enrollees; and
- Provide oversight to ensure compliance with Section 1367.04 and Rule 1300.67.04.

[4] Section 1367.04(b)(1)-(5).

PART I: LANGUAGE ASSISTANCE REGULATION REQUIREMENTS

Each health plan's language assistance program must be documented in written policies and procedures that address, at a minimum, the following elements:

- Standards for enrollee assessment;
- Standards for providing language assistance services;
- Standards for staff training; and
- Standards for compliance monitoring.[5]

Enrollee Assessment

Determination of Threshold Languages through Population Analysis

Rule 1300.67.04 requires health plans to tailor language assistance services to the needs of each health plan's enrollee population. Each health plan must apply statistically valid methods to develop a demographic profile, must survey the linguistic needs of individual enrollees, and update its assessment of enrollee language needs and demographic profile at least once every three years.[6] Based on health plan size and language needs assessment results, each health plan is required to determine threshold languages into which it must translate vital documents.[7]

Vital documents include:

- Applications;
- Consent forms;
- Letters containing important information regarding eligibility and participation criteria;
- Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal;
- Notices of the availability of free language assistance services;
- Claims processing documents that require a response from the enrollee; and
- Summaries of benefits and coverage, explanation of benefits documents, and health plan disclosure forms that describe the principal benefits and coverage, exclusions, limitations, and cost-sharing requirements applicable under a health plan contract.[8]

[5] Rule 1300.67.04(c).
[6] Rules 1300.67.04(c)(1)(A)-(B), (e)(1).
[7] Section 1367.04(b)(1)(A)(i)-(iii).
[8] Section 1367.04(b)(1)(B)(i)-(vi); Rules 1300.67.04(b)(7)(A)-(G), (c)(2)(F)(ii).

Table 1 below summarizes the standards for determining a health plan's threshold language(s) for vital document translation, as determined by each health plan's needs assessment results.[9]

Table 1: Language Threshold Standards for Translation

Number of Enrollees in the Health Plan	Minimum Number of Non-English Languages Vital Docs Must be Translated Into	Translation into Additional Languages is Required if the Number of Health Plan Enrollees Meets the Percentage or the Number of Enrollees, Whichever is Less
≥ 1,000,000	2 languages	0.75 percent or 15,000 enrollees
300,000 – 999,999	1 language	1.0 percent or 6,000 enrollees
< 300,000	0 languages unless threshold is met	5.0 percent or 3,000 enrollees

Language Assistance Services

Each health plan's language assistance program must include a description of how the health plan will provide language assistance services at all points of contact where language assistance needs may be reasonably anticipated, a description of the resources needed, and standards for providing translation and interpretation services.[10] Further, health plans must have processes to inform enrollees of the availability of free language assistance services and how to access the services.[11] Health Plans must also ensure that LEP enrollees are informed of their grievance and independent medical review rights in threshold languages and through oral interpretation.[12] Grievance forms and procedures in threshold languages must be readily available to enrollees and contracting providers.[13] Health plans' policies and procedures must include processes to ensure health plan providers are informed of health plan standards and mechanisms for providing free language assistance services and standards for ensuring proficiency of individuals providing translation and interpretation services by or on behalf of the health plan.[14]

Translation

Each health plan is required to translate vital documents into its threshold languages. For non-standardized enrollee-specific vital documents (i.e., vital documents that

[9] See Section 1367.04(b)(1)(A)(i)-(iii).
[10] Rule 1300.67.04(c)(2)(A), (B), (F), (G).
[11] Rule 1300.67.04(c)(2)(C)
[12] Rule 1300.67.04(c)(2)(D).
[13] Rule 1300.67.04(c)(2)(D)(i).
[14] Rule 1300.67.04(c)(2)(E), (H).

contain information tailored to the specific circumstances of an enrollee), a health plan is not required to translate the document. However, the health plan must provide the enrollee with a notice of the availability of language assistance services in the threshold languages.[15] If the enrollee requests translation, the translated document must be provided to the enrollee within 21 calendar days.[16] Non-English translations of vital documents must meet the same standards required for the English language versions of those documents.[17]

Interpretation Services

Health plans are required to provide interpretation services for *any* language requested by an enrollee, regardless of whether the language is identified as one of the health plan's threshold languages.[18]

Health plans must have processes or standards regarding the range of interpretation services that will be provided as appropriate for the particular point of contact, which may include, but are not limited to: arranging for the availability of bilingual health plan or provider staff, hiring staff interpreters, contracting for outside interpreters (including through telephone, videoconferencing, or other telecommunication-based services), or formally arranging for the services of volunteer community interpreters.[19] In any case, all interpreters must be trained and competent to provide interpreter services.[20]

Interpretation services must be offered to the enrollee even if the enrollee is accompanied by a family member or friend who is able to provide interpretation services. If the enrollee declines the offer of interpretation services, the declined offer must be noted in the enrollee's file.[21] However, health plans may require enrollees to rely on an adult or minor child accompanying the enrollee to interpret or facilitate communication in an emergency if a qualified interpreter is not immediately available.[22] An accompanying adult may otherwise interpret or facilitate communication if specifically requested by an enrollee, the accompanying adult agrees, and reliance on the accompanying adult is appropriate under the circumstances.[23]

Proficiency Standards

Health plans must develop and apply appropriate criteria for ensuring the proficiency of the individuals providing translation and interpretation services. Alternatively, health

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[15] Section 1367.04(b)(1)(C)(i).
[16] Section 1367.04(b)(1)(C)(i)-(ii).
[17] Rule 1300.67.04(c)(2)(F)(iv).
[18] Section 1367.04(b)(4); Rule 1300.67.04(c)(2)(G).
[19] Rule 1300.67.04(c)(2)(G)(vi).
[20] Rule 1300.67.04(c)(2)(G)(vi)-(vii).
[21] Rule 1300.67.04(c)(2)(G)(iii).
[22] Section 1367.04(b)(4)(C)(i).
[23] Section 1367.04(b)(4)(C). These provisions were added to Section 1367.04 by Senate Bill 223, effective January 1, 2018.

plans may adopt standards, issued by an association acceptable to the DMHC, to certify the proficiency of the individuals providing translation and interpretation services. At a minimum, a health plan's language assistance proficiency standards must require that individuals providing translation and interpretation services have:

- A documented and demonstrated proficiency in both English and the target language;
- A fundamental knowledge in both languages of health care terminology and concepts relevant to health care delivery systems; and
- Education and training in interpreting ethics, conduct, and confidentiality.[24]

Notice of the Availability of Language Assistance Services

Health plans must include a notice of the availability of free language assistance services with the following documents: all English versions of vital documents, all enrollment materials, all correspondence from the health plan confirming a new or renewed enrollment, brochures, newsletters, outreach and marketing materials, and other materials routinely disseminated to enrollees.[25] Health plans may develop their own language assistance notices, subject to the DMHC's approval, that include information sufficient to advise LEP enrollees of the availability of free language assistance services.[26]

To assist the health plans in meeting the language assistance notice requirements, the DMHC developed the following sample notice of the availability of language assistance:

> **"IMPORTANT**: You can get an interpreter at no cost to talk to your doctor or health plan. To get an interpreter or to ask about written information in (your language), first call your health plan's phone number at 1-XXX-XXX-XXXX. Someone who speaks (your language) can help you. If you need more help, call the HMO Help Center at 1-888-466-2219."

The DMHC translated the above language assistance notice in Spanish, Chinese (traditional), Arabic, Armenian, Khmer, Farsi, Hmong, Korean, Laotian, Russian, Tagalog, and Vietnamese.

Health plans were encouraged to use these notices even if some of the languages are not among the health plan's threshold languages. During the DMHC's review of health plan filings, analysts confirmed that many health plans are using the DMHC's notice (or slightly modified versions of the notice) to achieve compliance with the language assistance notice requirements.

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[24] Rule 1300.67.04(c)(2)(H).
[25] Section 1367.04(b)(1)(B)(v); Rule 1300.67.04(c)(2)(C)(ii)-(iii).
[26] Rule 1300.67.04(c)(2)(F)(v).

In 2017, the California Legislature passed Senate Bill 223, enacting Section 1367.042 and amending Section 1367.04. Section 1367.042 requires health plans to notify enrollees and the public, in specified locations and manner, of the following information:

- The availability of free and timely language assistance services and how to access them in the top 15 languages spoken by LEP individuals in California as determined by the Department of Health Care Services (DHCS);
- The availability of free and timely auxiliary aids and services for individuals with disabilities;
- A statement the health plan does not discriminate based on a set of protected categories; and
- How to file a discrimination complaint with the United States Department of Health and Human Services Office of Civil Rights.[27]

Further, health plans must include with non-standardized vital documents a written notice of the availability of interpretation services in the top 15 languages spoken by LEP individuals in California as determined by DHCS.[28] The DMHC has incorporated these requirements into its medical survey process.

Timely Access to Qualified Interpreters

Health plans must have processes and standards for providing enrollees with access to qualified and timely interpretation services at all points of contact. The term “timely” is defined to mean in a manner appropriate for the situation in which language assistance is needed. Interpretation services are not considered timely if delay results in the effective denial of the service, benefit, or right at issue. Each health plan’s program must specify quality assurance standards for timely delivery of language assistance services for emergency, urgent, and routine health care services, as well as standards for coordinating interpretation services with appointment scheduling.[29]

Specialized health plans providing dental, vision, chiropractic, acupuncture, or employee assistance services that demonstrate adequate availability and accessibility of qualified bilingual providers and office staff are deemed to be compliant with the requirements to offer qualified and timely interpretation services at all points of contact if all of the following conditions are met:

- Provider directories identify bilingual providers or providers who employ bilingual providers and/or staff, based on fluency attestations and signed language capability forms;

[27] Section 1367.042.
[28] Section 1367.04(b)(1)(C)(i).
[29] Rule 1300.67.04(c)(2)(G)(i)-(v).

- The health plan requires its providers to provide quarterly updates regarding any changes in the language capabilities of currently employed providers and/or office staff; and
- Quality assurance audits of contracting providers confirm and document the accuracy of provider language capability disclosure forms and attestations.[30]

Staff Training

Health plans must implement a system to provide language assistance training to all health plan staff that have routine contact with LEP enrollees. The training must include instruction on:

- The health plan's policies and procedures for language assistance;
- Working effectively with LEP enrollees;
- Working effectively with interpreters in person and through video, telephone, and other media as may be applicable; and
- Understanding the cultural diversity of the health plan's enrollee population and sensitivity to cultural differences relevant to delivery of health care interpretation services.[31]

Compliance Monitoring

Each health plan must monitor its language assistance program, including delegated programs, and must make modifications as needed to ensure compliance with the language assistance requirements.[32]

[30] Rule 1300.67.04(d)(9).
[31] Rule 1300.67.04(c)(3).
[32] Rule 1300.67.04(c)(4).

PART II: HEALTH PLAN COMPLIANCE WITH STANDARDS

Overview of the DMHC Medical Survey Process and Deficiency Findings

The DMHC conducts routine medical surveys of licensed health plans at least once every three years. Since 2009, the DMHC has incorporated review of each health plan's language assistance program into the routine medical surveys.

The DMHC completed medical surveys of 30 full-service and specialized health plans during the reporting period. The size and type of these health plans varied from health plans with commercial enrollment of less than 1,000 enrollees to health plans with more than one million commercial enrollees.

Table 2 identifies the total number of medical surveys completed during this reporting period by health plan type and year.

Table 2: Health Plan Type and Number of Medical Surveys Completed by Year

Health Plan Type	2023	2024
Full-Service	5	5
Dental	4	6
Behavioral Health	3	2
Vision	2	2
Chiropractic	0	1
Total	**14**	**16**

Table 3 identifies the number of language assistance deficiencies based on the size of the commercial health plan enrollment for the 2019, 2021, 2023, and 2025 biennial reporting periods.

Table 3: Medical Survey Deficiencies by Health Plan Enrollment

Health Plan Enrollment	2019 Report	2021 Report	2023 Report	2025 Report
Large (≥ 500,000)	1	3	2	10
Medium (150,000 to 499,999)	7	3	0	7
Small (< 150,000)	18	23	8	18
Total	**26**	**29**	**10**	**35**

For the 30 full-service and specialized medical surveys, the DMHC identified 35 deficiencies across 16 health plans' language assistance programs, as noted in Table 4.

Table 4: Number of Deficiencies by Health Plan Type

Number of Health Plans by Plan Type with a Deficiency	Total Number of Deficiencies
Full-Service Health Plans (6)	9
Dental Health Plans (3)	11
Behavioral Health Plans (4)	9
Vision Health Plans (3)	6
Total (16)	**35**

Tables 5 through 9 identify the full-service and specialized health plans that were surveyed in 2023 and 2024 and identified as non-compliant with the language assistance requirements. Health plans with an asterisk were cited for more than one language assistance deficiency. The results of the medical surveys are available on the DMHC website.

Table 5: Full-Service Health Plans Surveyed 2023 – 2024

2023	2024
County of Ventura	AltaMed Health Network, Inc.
San Mateo Health Commission	*UHC of California
Aetna Health of California, Inc.	*Monarch Health Plan, Inc.

Table 6: Dental Health Plans Surveyed 2023 – 2024

2023	2024
	*Dental Health Services
	United Concordia Dental Plans of California, Inc.
	*Aetna Dental of California Inc.

Table 7: Behavioral Health Plans Surveyed 2023 - 2024

2023	2024
US Behavioral Health Plan, California	*Health and Human Resource Center, Inc.
Magellan Health Services of California, Inc. - Employer Services	Human Affairs International of California

Table 8: Vision Health Plans Surveyed 2023 - 2024

2023	2024
Medical Eye Services, Inc.	*FirstSight Vision Services, Inc.
EyeMax Vision Plan, Inc.	

Table 9 identifies the deficiencies related to commercial health plan implementation of the Language Assistance Requirements, Standards for Enrollee Assessment, Standards for Staff Training, Standards for Language Assistance Services, and Standards for Compliance Monitoring.

Table 9: Total Commercial Health Plan Medical Survey Deficiencies by Language Standard 2023-2024

Language Standard	Deficiencies
Implementation	1
Standards for Enrollee Assessment	2
Standards for Staff Training	0
Standards for Language Assistance Services	10
Standards for Compliance Monitoring	7
Total	**20**

Health plans identified in Tables 5, 6, 7, and 8 with an asterisk indicate health plans cited as deficient in more than one of the language standards. Of the two health plans cited for a deficiency in Enrollee Assessment, one was also cited as being deficient in Standards for Language Assistance Services and Standards for Compliance Monitoring. One health plan was cited for Implementation. Three health plans identified deficient in both Standards for Language Assistance as well as Standards for Compliance Monitoring.

When a deficiency in a commercial health plan's language assistance program is identified, the health plan is required to submit a corrective action plan to the DMHC within 45 calendar days, describing the action taken to correct the deficiency and the results of such action. The DMHC then monitors the health plan's activities to ensure implementation of the corrective action plan to achieve compliance. Corrected and uncorrected deficiencies, (including a description of the health plan's corrective action) are identified in the final public report. Some deficiencies may require more than 45 days to correct. In those cases, the DMHC conducts a follow-up review of the uncorrected deficiencies no later than 18 months following the release of the final medical survey report. If the health plan has not achieved compliance by the end of the follow-up period, the DMHC may take enforcement action such as issuing fines, penalties, injunctions, cease and desist orders, or other actions. One of the health plans identified as having language assistance deficiencies in the 2023 Report (review period January 2021 through December 2022) and needing a follow-up review for uncorrected

deficiencies was found to still be non-compliant and was referred for potential enforcement action.

Of the 35 deficiencies identified during this reporting period, 33 deficiencies are currently being assessed as part of the Follow-Up Medical Survey process.

DMHC Help Center: Inquiry Calls and Complaints Related to Language Assistance Services

The DMHC Help Center provides information to consumers about how to access language assistance services through health plans and facilitates communication between enrollees and health plans to promptly arrange language services when needed. For this reporting period, the DMHC Help Center received 56 inquiries (phone calls) and 55 written complaints regarding language assistance.

Table 10: Language Assistance Inquiries

Inquiry Type	Number of Inquiries 2017-2018	Number of Inquiries 2019-2020	Number of Inquiries 2021-2022	Number of Inquiries 2023-2024	Percentage of Total Language Assistance Inquiries 2017-2024
Consumer inquiry about how to obtain an interpreter	18	10	17	11	23.0%
Consumer inquiry about how to obtain translated documents	5	14	5	1	10.2%
Consumer inquiry about the language assistance laws	0	4	1	2	2.9%
Consumer requested interpreter, but none was provided	19	8	17	26	28.7%
Consumer requesting a provider that speaks their language	1	1	0	2	1.6%
Provider unsure how to access a health plan's language assistance program	18	20	18	12	27.9%
Provider inquiry about the language assistance laws	4	6	2	2	5.7%
Total Inquiries Regarding Language Assistance	**65**	**63**	**60**	**56**	**100.0%**

When an enrollee or provider calls the Help Center, agents will try to resolve the inquiry by explaining the law, health plan requirements, or how to receive interpreter or translation services. Agents may also contact a health plan on an enrollee's behalf to advise the health plan that they must assist the consumer in the requested language. Enrollees may also submit a grievance with their health plan and if the enrollee is not

satisfied with the health plan's response to their grievance, the enrollee may submit a complaint to the DMHC.
During this reporting period, the DMHC closed 55 written complaints. Thirty-six of the 55 complaints (65%) related to interpreter access, four (7%) related to cultural barriers, and four (7%) included a secondary category[33] related to responsiveness. See Table 11 for a breakdown of complaint categories received by the DMHCs Help Center.

Table 11 below provides the types and number of complaints the Help Center received from 2023 through 2024 related to language assistance.

Table 11: Language Assistance Complaints

Complaint Type	Number of Complaints 2017-2018	Number of Complaints 2019-2020	Number of Complaints 2021-2022	Number of Complaints 2023-2024
Interpreter Access	17	18	21	36
Translation Access	11	14	5	3
Cultural Barrier	0	7	3	4
Access to Specialist	1	2	0	2
Coverage Benefits Exclusion	1	1	2	4
Non-Medical Transportation	1	1	0	1
Prescription Issue	1	1	0	1
Responsiveness	1	3	4	4
Total Complaints Regarding Language Assistance	**33**	**47**	**35**	**55**

Of the 55 complaints for 2023-2024, 33 were resolved by the DMHC through the complaint process, eighteen were referred back to the health plan to complete the health plan's grievance process, three were not under DMHC jurisdiction, and, in one case, the DMHC Help Center was not able to contact the enrollee.

[33] Prior to October 2018, the DMHC's complaint database only allowed for one complaint category to be recorded. For categories other than Interpreter Access or Translation Access, a language access complaint was secondary to the primary complaint.

CONCLUSION

One of the fundamental components of the DMHC's mission is to ensure consumers are educated about their health care rights and aware of the resources available through the DMHC Help Center. While the Help Center has assisted over 2.9 million consumers, non-English speaking consumers contact the Help Center at a lower rate when compared to their population representation.

During this two-year report period of January 1, 2023 through December 31, 2024, the DMHC identified 35 deficiencies for 16 of the 30 health plans the DMHC surveyed. The largest number of consumer inquiries and complaints to the DMHC Help Center during this period were about access to interpreters and translation services.

The DMHC will continue to oversee and assess the effectiveness of the health plans' language assistance programs. The DMHC will also continue its focus on outreach to non-English and limited-English proficient health plan enrollees and work with its contracted community-based organization partners to conduct outreach regarding consumers' rights to access language assistance and regarding the availability of the Help Center to assist individuals with language access problems.