

# DHHS Policy Concerning Meaningful Access to Services for LEP Persons

## Limited English Proficiency (LEP) Language Assistance as per Presidential Executive Order 13166:

### “Improving Access to Services for Persons with Limited English Proficiency”

Revised: February 5, 2009

Issue Date: July 3, 2006

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#### **(I) Purpose & Background**

This policy affirms the Nebraska Department of Health and Human Services’ (DHHS) federal statutory and regulatory obligations for taking reasonable steps to ensure meaningful access to services for limited English proficient (LEP) persons at no cost pursuant to Presidential Executive Order 13166: “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000).

This policy is informed by Executive Order 13166 per se and, “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (U.S. Department of Health and Human Services (HHS), Office for Civil Rights—last revised: October 4, 2006). This policy guidance document is not a regulation, but rather a guide.

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall “on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” U.S. Department of Health and Human Services regulations 45 CFR 80.3(b)(2) “require all recipients of federal financial assistance from HHS to provide meaningful access to LEP persons.” Grantees (sub-recipients) likewise are affected when federal funds are passed through the DHHS.

This policy recognizes the considerable range of successful efforts exerted for some time throughout the DHHS in taking reasonable steps to ensure meaningful access to services for LEP persons. These efforts are grounded in ongoing commitment to the DHHS mission—“Helping people live better lives.”

#### **(II) ‘Limited English Proficient Persons’ Defined**

*“Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English may be limited English proficient, or ‘LEP’, and may be eligible to receive language assistance with respect to a particular type of service, benefit, or encounter.” This includes parents “and legal guardians of minors eligible for coverage concerning such programs.”*

#### **(III) Four-Factor Analysis for Determining Reasonable Steps to Ensure Meaningful Access to DHHS Programs & Services for LEP Persons**

While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment

that balances the following four factors. After applying this four-factor analysis, it may be concluded that different language assistance measures are reasonable and sufficient for different types of DHHS services, or, in fact, that, in certain circumstances, provision of language assistance is not necessary.

1. Demography - The number or proportion of LEP persons from a particular language group eligible to be served or likely to be encountered by the DHHS (including whether minor children served have LEP parent(s) or guardian(s) with whom DHHS staff may need to interact)
2. Frequency -The frequency with which the DHHS comes in contact with LEP persons from a particular language group
3. Impact -The importance and urgency in LEP persons' lives of DHHS services provided
4. Resources -The resources available to the DHHS and costs associated with providing meaningful access to services for LEP persons

#### **(IV) Five-Step LEP Language Assistance Implementation Guidance**

1. Identify LEP persons by language group with whom the DHHS has contact, or with whom the DHHS might reasonably predict contact, and who may require language assistance for meaningful access to services.
  2. Explore methods of LEP language assistance. There are two ways for the DHHS to provide language assistance: oral interpretation, either in person, via telephone or video conferencing, or via audio/video recordings; and written translation. DHHS programs have substantial flexibility in determining the appropriate mix of interpretation and translation language assistance provided. The correct mix of language assistance is based on reasonable steps to ensure meaningful access to services based on the four-factor analysis.
    - Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language).
    - Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language).
  3. Train selected DHHS staff on LEP language assistance implementation.
  4. Provide notice to LEP persons of DHHS services and the availability of language assistance at no cost.
  5. Monitor and update LEP language assistance implementation.
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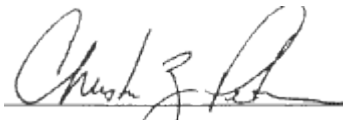
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