

Issue Alert

14-01-01

Program Area:	All Department of Human Services (DHS) public assistance programs	
Issue Summary:	DHS specialists have a responsibility to assist those who have Limited English Proficiency (LEP) in having an equal opportunity to participate in or benefit from DHS programs and services through an interpreter	
Persons Affected:	All applicants to and recipients of DHS programs and services who are not fluent in English (have Limited English Proficiency (LEP))	
Date:	January 15, 2014	
For More Information:	Center for Civil Justice 326 S. Saginaw St Flint, MI 48502 (810) 244-8044, (800) 724-7441 Fax: (810) 244-5550 Email: info@ccj-mi.org	Michigan Poverty Law Program 611 Church Street, Suite 4A Ann Arbor, MI 48104-3000 (734) 998-6100, Fax: (734) 998-9125

BACKGROUND

Local DHS offices have a responsibility in policy and under state and federal law to inform applicants and recipients of – and ensure they fully understand – their rights and responsibilities concerning all DHS public assistance programs. DHS also has a responsibility to honor applicants' and recipients' rights, treat them with dignity and respect, and specifically, assist those who need help completing forms or gathering verifications. In sum, DHS should provide every individual equal access to its benefits and services. This is especially true with applicants and recipients who are not fluent in English, otherwise known as having Limited English Proficiency (LEP).

WHAT'S HAPPENING?

Effective January 1, 2014, DHS has updated and detailed DHS specialists' responsibilities in serving LEP applicants and recipients, to ensure they have an equal opportunity to participate effectively in or benefit from DHS programs and services. DHS must provide appropriate language interpreters to applicants and recipients with LEP to afford such opportunity, whether through DHS itself or contract

service providers and sub-recipients. Language interpreters must be provided in each type of applicant and recipient interaction, for example: over the telephone, in local offices, during intake interviews, for all types of service delivery, when applicants and recipients make complaints, etc. It is not clear how interpreter services will be provided for calls handled through automated phone systems or when voice mail messages are left by LEP clients in languages other than English.

Specifically, advocates and clients should be aware of the following requirements in the policy, and should be alert to situations in which policy is not followed:

1. DHS must first *assess* an individual's need for an interpreter, and the preferred language or communication method, from the individual's application, statements to that effect, or family members/other representative.
2. The need for an interpreter must be *recorded* by DHS in the individual's file and reported to any applicable third party service providers. All subsequent interpretation services also must be documented. The policy does not clearly explain whether the recording of interpreter needs automatically triggers the issuance of subsequent written communications in Spanish or Arabic, if the client speaks one of these languages and translated DHS forms or notices are available, or whether there is another method for assuring notices and forms are issued in the appropriate language.
3. Once the need is identified, an interpreter must be provided *within two (2) days* of a client's request "if at all possible", but other arrangements must be made if there is an urgent/emergency situation, and an interpreter must be provided at all relevant interactions with the individual.
4. The LEP individual must be informed that either DHS will *arrange and pay* for the interpreter, or the individual may choose her or his own *adult* interpreter (with DHS approval). Policy specifically states that minor children may *not* serve as language interpreters.
5. "When at all possible," DHS must provide interpreters who are *physically present* with the individual or at the DHS office, not remote telephone interpreters. A DHS applicant or recipient who does not choose an interpreter of his/her own cannot refuse services of a DHS employee under the policy, but can decline the services of a volunteer interpreter from outside of DHS.
6. The policy states that interpreters must be demonstrated *competent*, but need not be certified, based on the following criteria: proficiency in both applicable languages, specialized knowledge of the topic area being interpreted, the relevant cultural sensitivity, and an understanding of interpretation ethics and confidentiality. The policy does not indicate how these competencies are demonstrated to, or assessed by, DHS.

This updated policy is announced in Bridges Policy Bulletin BPB 2014-002, pp. 1-2, effective January 1, 2014. The Bulletin is available at: <http://www.mfia.state.mi.us/olmweb/ex/BP/Public/BPB/2014-002.pdf>, and the full policy itself is available at BAM 105 pp. 13-16: <http://www.mfia.state.mi.us/OLMWeb/ex/BP/Public/BAM/105.pdf>.

WHAT SHOULD ADVOCATES DO?

1. Remind DHS applicants and recipients, and LEP advocates, about this policy and inform them about this update.
2. Contact the Food Assistance Helpline at 1-800-481-4989 for help enforcing the Food Assistance rights concerning those who have LEP.
3. Help DHS applicants and recipients who have LEP tell DHS that they are not fluent and that they need an interpreter. In particular, assist clients in asking DHS for help when needed to get information, fill out forms, or obtain verifications for any DHS public assistance program.
4. Be alert to, and document situations where, DHS incorrectly “assesses” the need for an interpreter, refuses interpreter services, or does not provide a competent interpreter.
5. Be alert to, and document, automated telephone systems or voicemail systems that do not address the language needs of LEP clients.
6. Be alert to, and document any substandard, inadequate, or incompetent interpreter services provided to clients.
7. Help DHS applicants and recipients request an administrative hearing and find legal advice if they need it, especially if they have been mistreated due to having LEP or have not been given assistance from DHS when requested.
8. Help LEP clients report situations in which DHS policy is not followed or necessary interpreter or translation services are not provided. Help clients DHS applicants and recipients get legal help to file complaints with the appropriate federal authority – the Department of Agriculture for Food Assistance, and the United States Office of Civil Rights for Family Independence Program and Medicaid clients. See BAM 105 and Issue Alert 13-01-01.

WHAT SHOULD CLIENTS DO?

1. Tell DHS if you want an interpreter because English is not your first language. Include this information on your DHS application if possible. Ask DHS for help when needed to get information, fill out forms, or obtain verifications for any DHS public assistance program and English is not your first language. If you speak a little English but are not fluent, be sure to tell DHS that you want an interpreter so that you will fully understand all DHS rules and requirements.
2. Request an administrative hearing and seek legal advice if you feel you have been mistreated because English is not your first language. or if you have not been given interpretation

assistance from DHS when requested.

3. Food Assistance advocates are available to answer questions toll-free, and help you file a complaint, at 800-481-4989.

FINDING HELP

Legal aid and legal services offices may handle these types of cases without a fee. You can locate the offices that serve your county on the Michigan Legal Help Web Site, <http://www.michiganlegalhelp.org/>, in the yellow pages under “attorneys,” or by calling the toll-free lawyer referral number, 800-968-0738.