

New HHS Translation Requirements Aim to Help LEP Patients: What Providers Need to Know to Ensure Compliance

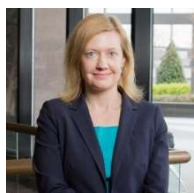
Language barriers arising in the provision of healthcare services to limited English proficient (LEP) persons are associated with lower quality of care, worse clinical outcomes, longer hospital stays, and higher rates of hospital readmissions. To protect LEP persons, the U.S. Department of Health and Human Services and the Department of Justice [issued joint guidance](#) earlier this year emphasizing that failure to accommodate LEP patients in the telehealth setting violates federal civil rights laws. Any health programs and activities *receiving* federal financial assistance (including payments from Medicare or Medicaid) are covered under the guidance. Failure to comply with the guidance could cost your practice significantly in penalties and court fees and, worse yet, risk your ability to participate in federal healthcare services.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of national origin. This means that, among other things, healthcare providers must “ensure meaningful access” to healthcare services for LEP persons. The guidance suggests that ensuring “meaningful access” may require, in many instances, the provision of language assistance services. In the particular context of telehealth (which also includes providing information about the availability and scheduling of telehealth services), “meaningful access” may require:

- **Non-English statements.** In e-mails to patients or social media posts about the opportunity to schedule telehealth appointments, incorporate a short, non-English statement in a language LEP persons understand regarding how to obtain the information sent via e-mail or posted to social media.
- **Telehealth platforms.** Choose video platforms that support remote interpreters.
- **Remote appointments and interpreters.** Have a qualified language interpreter available for LEP patients and ensure that the telehealth platform allows the language interpreter to join a telehealth appointment.

The guidance assures covered entities that they are not required to offer any service that results in an undue burden or causes any fundamental alteration in current services. However, this “undue burden” inquiry requires a rigorous fact-intensive assessment. Your practice will be best served to document this inquiry, especially in the event your practice declines to provide any needed language assistance services. It is important to note that patients cannot be forced to pay for (or provide) required language assistance services.

Our [Healthcare Practice Group](#) can help providers navigate telemedicine compliance issues. If you have questions, please contact your GableGotwals representatives or the authors listed below.



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