

may want to use a telephone interpreter service. In contrast, a dentist in an almost exclusively English-speaking neighborhood who has rarely encountered a patient who did not speak English and has never encountered a Hmong-speaking patient may not need, pursuant solely to Title VI, to provide language services for a LEP Hmong individual who comes in for a dental cleaning.

## VI. Selecting Language Assistance Services

Recipients have two main ways to provide language services: oral and written language services (interpretation and translation, respectively). Regardless of the type of language service provided, quality and accuracy of those services is critical to avoid serious consequences to the LEP person and to the recipient. Recipients have substantial flexibility in determining the appropriate mix.

### A. Considerations Relating to Competency of Interpreters and Translators

*Competence of Interpreters.* Recipients should be aware that competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English. Likewise, they may not be able to perform written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should take reasonable steps, given the circumstances, to assess whether the interpreters:

Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (e.g., consecutive, simultaneous, summarization, or sight translation);

To the extent necessary for communication between the recipient or its staff and the LEP person, have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity and of any particularized vocabulary and phraseology used by the LEP person;<sup>8</sup>

<sup>8</sup>Many languages have "regionalisms," or differences in usage. For instance, a word that may be understood to mean something in Spanish for

Understand and follow confidentiality and impartiality rules to the same extent as the recipient employee for whom they are interpreting and/or to the extent their position requires;

Understand and adhere to their role as interpreters without deviating into other roles—such as counselor or legal advisor—where such deviation would be inappropriate (particularly in administrative hearings contexts).

Some recipients, such as some state agencies, may have additional self-imposed requirements for interpreters. Where individual rights depend on precise, complete, and accurate interpretation or translations, particularly in the context of administrative proceedings, the use of certified interpreters is strongly encouraged.<sup>9</sup>

While quality and accuracy of language services is critical, the quality and accuracy of language services is nonetheless part of the appropriate mix of LEP services required. The quality and accuracy of language services in a hospital emergency room, for example, should be as high as possible, given the circumstances, while the quality and accuracy of language services in other circumstances need not meet the same exacting standards.

Finally, when interpretation is needed and is reasonable, it should be provided in a timely manner. To be meaningfully effective, language assistance should be timely. While there is no single definition for "timely" applicable to all types of interactions at all times by all types of recipients, one clear guide is that the language assistance should be provided at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person. When the timeliness of services is important, and delay would result in the effective denial of a benefit, service, or right, language assistance likely cannot be

someone from Cuba may not be so understood by someone from Mexico. In addition, the interpreter should be aware when languages do not have an appropriate direct interpretation of certain terms and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue, so that the interpreter and recipient can work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

<sup>9</sup>For those languages in which no formal accreditation or certification currently exists, certain recipients may want to consider a formal process for establishing the credentials of the interpreter, or assess whether a particular level of membership in a professional translation association can provide some indicator of professionalism.

unduly delayed. Conversely, where access to or exercise of a service, benefit, or right is not effectively precluded by a reasonable delay, language assistance can likely be delayed for a reasonable period.

For example, language assistance could likely not be delayed in a medical emergency, or when the time period in which an individual has to exercise certain rights is shortly to expire. On the other hand, when an LEP person is seeking a routine medical examination or seeks to apply for certain benefits and has an ample period of time to apply for those benefits, a recipient could likely delay the provision of language services by requesting the LEP person to schedule an appointment at a time during which the recipient would be able to have an appropriate interpreter available.

*Competence of Translators.* As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting; a person who is a competent interpreter may or may not be competent to translate.

Particularly where legal or other vital documents are being translated, competence can often be achieved by use of certified translators. As noted above, certification or accreditation may not always be possible or necessary. Competence can often be ensured by having a second, independent translator "check" the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called "back translation."

Translators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English language version or has no relevant equivalent meaning.<sup>10</sup> Community

<sup>10</sup>For instance, there may be languages which do not have an appropriate direct translation of some specialized medical terms and the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate. Recipients may find it more effective and less costly if they try to maintain consistency in the words and phrases used to translate terms of art and other