

DATE: May 19, 2025

SUPERSEDES ALL PLAN LETTER 21-001

TO: ALL MEDI-CAL DENTAL MANAGED CARE PLANS

SUBJECT: ALL PLAN LETTER (APL) 25-006: STANDARDS FOR DETERMINING THRESHOLD LANGUAGES, NONDISCRIMINATION REQUIREMENTS, LANGUAGE ASSISTANCE SERVICES, AND ALTERNATIVE FORMATS¹

PURPOSE:

The purpose of this Dental APL is for the Department of Health Care Services (DHCS) to provide Dental Managed Care (DMC) plans of the dataset for threshold and concentration languages and clarifies the threshold and concentration standards specified in state and federal law and the DMC plans Contract.² This dataset identifies the threshold and concentration languages in which, at a minimum, DMC plans must provide written translated Member information. This APL supersedes 21-001³.

This APL also provides guidance on federal and state requirements regarding nondiscrimination, discrimination grievance procedures, language assistance, and communications with individuals with disabilities as set forth in the federal regulations implementing Section 1557 of the Patient Protection and Affordable Care Act (ACA),⁴ Title 42 of the Code of Federal Regulations (CFR) Part 438,⁵ Senate Bill (SB) 223 (Atkins, Chapter 771, Statutes of 2017),⁶ and SB 1423 (Hernandez, Chapter 568, Statutes of 2018).⁷

BACKGROUND:

DHCS Threshold and Concentration Standard Languages

Federal law⁸ requires DHCS to establish a methodology for identifying the prevalent non-English languages spoken by potential members throughout the State, and in each DMC plan's service area, for the purpose of requiring the DMC plan to provide written translations of Member information in these languages.⁹ State law requires DHCS to identify these languages by calculating whether individuals who speak a non-English language meet certain numeric thresholds or are geographically concentrated in certain

¹ See APL 22-011 or any superseding APL. APLs are searchable at: <https://www.dhcs.ca.gov/services/Pages/DentalAllPlanLetters.aspx>

² The boilerplate DMC Contract is available at: <https://www.dhcs.ca.gov/services/Pages/DMCContractsAllPlanLetters.aspx>

³ [APL 21-001: Standards for Determining Threshold Languages, Nondiscrimination Requirements, and language Assistance Services](#)

⁴ See 45 CFR, Part 92. The CFR is searchable at: <https://www.ecfr.gov/titles>

⁵ 42 CFR, Part 438.

⁶ SB 223 is available at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB223

⁷ SB 1423 is available at: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1423

⁸ 42 CFR section 438.10(d)(1).

⁹ 42 CFR section 438.10(d)(2)-(3)



ZIP codes.¹⁰ Pursuant to State law, DHCS determines the languages in which, at a minimum, DMC plans must provide translated written Member information. DHCS refers to these languages as the threshold and concentration standard languages. Additionally, DHCS is required to determine these languages when a non-managed care county becomes a new managed care county; a new population becomes a mandatory Medi-Cal managed care population; or a period of three (3) years has passed since the last determination.

Nondiscrimination, Language Assistance, and Effective Communication for Individuals with Disabilities

Section 1557 of the ACA¹¹ prohibits discrimination on the basis of race, color, national origin, sex, age, or disability, in any health programs or activities, and builds on the following long-standing federal civil rights laws and incorporates all of the existing nondiscrimination requirements of those laws: Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Age Discrimination Act of 1975 (Age Act). In addition, Section 1557 of the ACA also requires covered programs to ensure effective communication with individuals with disabilities and provide meaningful access to individuals with limited English proficiency (LEP) who are eligible to be served, or likely to be encountered, in health programs and activities.¹² Covered entities include every health program or activity, any part of which receives federal financial assistance directly or indirectly from the United States Department of Health and Human Services (HHS); every health program or activity administered by HHS; and every program or activity administered by a Title I entity.¹³ These requirements apply to DMC plans' Medi-Cal lines of business.

HHS Office for Civil Rights (OCR) implemented Section 1557 through federal regulations set forth in Part 92 of Title 45 of the CFR in May of 2016. The 2016 version of these regulations included a requirement that covered health programs include a nondiscrimination notice and language taglines in non-English languages advising of the availability of free language assistance services in certain communications and publications. On June 19, 2020, HHS OCR published revised regulations eliminating these specific requirements and replaced them with a four-factor analysis that a covered program must engage in to determine the level of language assistance required under federal law.¹⁴

On May 6, 2024, HHS OCR issued a revision of these regulations, that removed the four-factor analysis and replaced it with regulations that contain more specificity and flexibility for the provision of meaningful access to individuals with LEP. The 2024 version of these regulations clarifies and affirms the categories of prohibited discrimination, including race, color, national origin (including LEP and primary language), sex (including sex characteristics, including intersex traits; pregnancy or

¹⁰ See W&I section 14029.91. State law is searchable at: <https://leginfo.legislature.ca.gov/>

¹¹ See Title 42 of the United States Code (USC) section 18116. The USC is searchable at: <http://uscode.house.gov/>

¹² See, e.g., 45 CFR sections 92.11 and 92.102

¹³ 42 CFR section 92.2.101

¹⁴ Former 45 CFR section 92.101, effective August 18, 2020, through July 4, 2024

related conditions; sexual orientation; gender identity; and sex stereotypes), age, or disability. Covered health programs are also required to not discriminate against individuals through telehealth services or the use of patient care decision support tools. The regulations also provide specific requirements for a nondiscrimination notice. Covered health programs are required to notify Members and the public of the nondiscrimination notice and the Notice of Availability, which are to be provided annually in English and at least the 15 most commonly spoken languages, and in alternate formats for individuals with disabilities.¹⁵ Covered entities are required to have a Section 1557 Coordinator responsible for discrimination grievances. The regulations include the use of the term “Notice of Availability of Language Assistance Services and Auxiliary Aids and Services” – “Notice of Availability” for short when referring to language taglines.

42 CFR Part 438 also contains complementary language assistance requirements specific to DMC plans, such as the requirement to provide the Notice of Availability in the prevalent non-English languages in the state, in a conspicuously visible font size, explaining the availability of written translation or oral interpretation services and how to request auxiliary aids and services for people with disabilities.¹⁶

DMC plans are also subject to federal requirements contained in the Americans with Disabilities Act (ADA), including standards for communicating effectively with people with disabilities to ensure they benefit equally from government programs.¹⁷ Additional communication-related regulations are set forth in 42 CFR section 438.10.

SB 223 and SB 1423 codified into state law certain nondiscrimination and language assistance service requirements specific to DHCS¹⁸ and DMC plans.¹⁹ Senate Bill (SB) 223 and SB 1423 also incorporated additional characteristics protected under state nondiscrimination law, including gender, gender identity, marital status, ancestry, religion, and sexual orientation.²⁰

¹⁵ The Nondiscrimination in Health Programs and Activities Final Rule can be found at: <https://www.govinfo.gov/content/pkg/FR-2024-05-06/pdf/2024-08711.pdf>.

¹⁶ 42 CFR section 438.10(d)(2)-(3).

¹⁷ ADA Title II Regulations are available at: https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm

¹⁸ W&I section 14029.92.

¹⁹ W&I section 14029.91.

²⁰ W&I section 14029.92 and 14029.91. For additional state-law-protected characteristics, see Government Code (GC) section 11135

POLICY:

DHCS Threshold and Concentration Language Requirements

Member information²¹ is essential information regarding access to and usage of DMC plans' services. DMC plans are required to provide translated written Member information, using a qualified translator (see requirements for qualified translators in the section on Written Translation below), to the following language groups within their service areas, as determined by DHCS:

- A population group of eligible beneficiaries²² residing in the DMC plan's service area who indicate their primary language as a language other than English, and that meet a numeric threshold of 3,000 or five-percent (5%) of the eligible beneficiary population, whichever is lower (Threshold Standard Language);²³ and
- A population group of eligible beneficiaries residing in the DMC plan's service area who indicate their primary language as a language other than English and who meet the concentration standards of 1,000 in a single ZIP code or 1,500 in two contiguous ZIP codes (Concentration Standard Language).²⁴

The dataset enclosed in this APL delineates the required threshold and concentration languages, as determined by DHCS, for the above-mentioned groups within the DMC plan's service area(s). DHCS updates this dataset at least once every three fiscal years to address potential changes to both numeric threshold and concentration standard languages, as well as to reflect changes necessitated by state and federal law. This APL revision provides an updated threshold and concentration language dataset. DMC plans must comply with the updated dataset by November 15, 2025, and begin providing translated written Member information, as required, in these languages.^{25,26}

²¹ Member information includes documents that are vital or critical to obtaining services and/or benefits and includes, but is not limited to, the Member Handbook (also called the Evidence of Coverage, or EOC); Provider directory; welcome packets; marketing information; form letters, including Notice of Action letters and any notices related to Grievances, actions, and Appeals, including Grievance and Appeal acknowledgement and resolution letters; Member surveys; notices advising persons with LEP of free language assistance; and newsletters.

²² "Eligible beneficiary" is defined in the DMC Plans contract as any Medi-Cal beneficiary who is residing in the DMC Plans service area and has met all the qualifications with one of the covered aid codes. Note: threshold language calculations include all Medi-Cal beneficiaries who are "eligible" to enroll, either mandatorily or by choice, in the plan in the county and are not based on actual DMC plan enrollment.

²³ W&I section 14029.91(b)(1)

²⁴ W&I section 14029.91(b)(2)

²⁵ Where Chinese has been identified as a threshold or concentration language and the Member has requested to receive translated written information in either traditional or simplified Chinese characters, the DMC plans must provide written information in the Member's preferred characters. However, if the Member has not indicated a preference for simplified or traditional Chinese characters, and the DMC plans does not yet have a process in place to provide written translations in Chinese, the DMC plans must provide translations in Simplified Chinese characters. Only upon Member request will the DMC Plans be required to provide translated written information in Traditional Chinese characters. DMC plans must comply with the updated threshold and concentration language dataset and, if applicable, provide translated written information in Chinese.

²⁶ The November 15, 2025, implementation date reflects the date of compliance (180 days from the release of this iteration of the APL).

Nondiscrimination, Language Assistance, and Effective Communication for Members with Disabilities

DMC plans must comply with all of the nondiscrimination requirements set forth under federal and state law and this APL, which includes the inclusion of the nondiscrimination notice in Member information and all other informational notices, and the provision of the required Notice of Availability that informs Members with LEP of the availability of free language assistance services and appropriate auxiliary aids and services for people with disabilities.

DHCS has updated its template of the nondiscrimination notice and Notice of Availability to conform with the 2024 changes to federal law.²⁷ The DHCS templates for the nondiscrimination notice and Notice of Availability are provided as enclosures to this APL. DHCS continues to require that the Notice of Availability include additional languages to maintain consistency in translation with Medi-Cal fee-for-service (FFS).²⁸ DHCS does not require DMC plans to use the DHCS-provided template language verbatim as long as all notices and the associated Notice of Availability are compliant with federal and state law and the requirements contained in this APL.

Nondiscrimination Notice

DMC plans must make available a nondiscrimination notice²⁹ that informs Members, Potential Members,³⁰ and the public about nondiscrimination, protected characteristics, and accessibility requirements, and conveys the DMC plans compliance with the requirements. The nondiscrimination notice must include all legally required elements.³¹ DMC plans are not prohibited from using a more inclusive list of protected characteristics than those included in the DHCS-provided template, as long as all protected characteristics listed in the DHCS-provided template are included

All DMC plans nondiscrimination notices must include information about how to file a discrimination Grievance directly with the DMC plans, DHCS' OCR, and HHS' OCR (i.e., file a Grievance with HHS OCR if there is a concern of discrimination based on sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identify or sexual orientation or any combination thereof).

²⁷ Please note that 45 CFR sections 92.10 and 92.11 require DMC plans to be compliant with nondiscrimination requirements within 120 days of July 5, 2024, and compliant with the notice of availability requirements within one year of July 5, 2024.

²⁸ W&I section 14029.91(a)(3) and 45 CFR section 92.11 require that the notice of availability be provided in at least the top 15 languages spoken by individuals with LEP in the state; however, DHCS requires DMC plans to provide the notice of availability in English, the top 15 non-English languages spoken by LEP individuals in the state, as well as Laotian, Ukrainian, and Mien.

²⁹ 45 CFR section 92.10.

³⁰ "Potential enrollee" is defined in the DMC contract as a Medi-Cal beneficiary who is subject to mandatory enrollment or may voluntarily elect to enroll in a given MCO, PIHP, PAHP, PCCM or PCCM entity, but is not yet an enrollee of a specific plan MCO, PIHP, PAHP, PCCM, or PCCM entity.

³¹ 45 CFR section 92.10(a); W&I section 14029.91(e)(1)-(5).

The nondiscrimination notice must be made available in accordance with federal and state law, and be included in the Member Handbook/EOC, on the internet website published and maintained by the DMC plans, and other informational notices targeted to Members, Potential Members, and the public.^{32 33} Informational notices include not only documents intended for the public, such as outreach, education, and marketing materials, but also written notices requiring a response from an individual and written notices to an individual such as those pertaining to rights or benefits. Additionally, the nondiscrimination notice must be posted in at least a 20-point sans serif font in clear and prominent physical locations where it is reasonable to expect Members seeking health program or activities to be able to read or hear the notice,³⁴ as well as on the DMC plans' website in a location that allows any visitor to the website to easily locate the information.³⁵

DMC plans are required to make the nondiscrimination notice available, upon request or as otherwise required by law, in the threshold and concentration languages,³⁶ or in an ADA-compliant, accessible format.³⁷ DMC plans are not prohibited from posting the nondiscrimination notice in additional publications and communications. Printed nondiscrimination notice and Notice of Availability are not to be replaced by the use of quick response codes, otherwise known as QR codes.³⁸

For small-sized informational notices, DMC plans may use an abbreviated nondiscrimination statement in lieu of the full-sized nondiscrimination notice.³⁹ The abbreviated nondiscrimination statement must be accompanied by the full set of language taglines in 18 non-English languages required by this APL (see the enclosed DHCS template for the abbreviated nondiscrimination statement and language taglines for small-sized informational notices).⁴⁰

Discrimination Grievances

DMC plans must designate a discrimination Grievance coordinator who is responsible for ensuring compliance with federal and state nondiscrimination requirements.⁴¹ The

³² Per 42 CFR section 438.10(d)(6)(ii), all written materials for Potential Members and Members must use a font size no smaller than 12-point. Per 42 CFR section 92.10(a)(2)(i), the nondiscrimination notice must also be provided to Members on an annual basis.

³³ W&I section 14029.91(f).

³⁴ 45 CFR section 92.10(a)(2)(iv); W&I section 14029.91(f)(1)(B). The physical notice must be in a conspicuous location and easily readable by a member of the public (for example, in a patient waiting area), not behind private office doors.

³⁵ 45 CFR section 92.10(a)(2)(iii); W&I section 14029.91(f)(1)(C).

³⁶ W&I section 14029.91(a)(2).

³⁷ 45 CFR section 92.202.

³⁸ Quick Response Codes (QR Codes) can be used alongside the Nondiscrimination Notice and Notice of Availability but cannot replace or be used in lieu of these printed notices

³⁹ The abbreviated nondiscrimination statement and full set of language taglines may be used for postcards, pamphlets, newsletters, brochures, and flyers if these items are printed and/or distributed on paper or folded in way that is smaller than 8.5 x 11 inches.

⁴⁰ 42 CFR 438.10(d)(2)-(3); WIC 14029.91(f)

⁴¹ See, e.g., 45 CFR section 84.7; 34 CFR section 106.8; 28 CFR section 35.107; 45 CFR section 92.7.

DMC plans discrimination Grievance coordinator must investigate grievances alleging any action that would be prohibited by, or out of compliance with, federal or state nondiscrimination laws.⁴² DMC plans must also adopt Grievance procedures that provide for the prompt and equitable resolution of discrimination-related Grievance.⁴³ The DMC plans' discrimination Grievance procedures must follow the requirements outlined in sections III (A) – (C) of APL 22-006⁴⁴, Grievance and Appeal Requirements and Revised Notice Templates and "Your Rights" Attachments, or any superseding APL, including timely acknowledgment and resolution of discrimination Grievance. Members are not required to file a discrimination Grievance with the DMC plans before filing a discrimination Grievance directly with DHCS OCR or the HHS OCR.

The DMC plans discrimination Grievance coordinator must be available to:⁴⁵

1. Answer questions and provide appropriate assistance to DMC plans staff and Members regarding the DMC plans state and federal nondiscrimination legal obligations.
2. Advise the DMC plans about nondiscrimination best practices and accommodating persons with disabilities.
3. Investigate and process any ADA, section 504, section 1557, and/or GC section 11135 Grievance received by the DMC plans.

DMC plans must ensure that all discrimination Grievance are investigated by the DMC plan's designated discrimination Grievance coordinator. DMC plans are prohibited from using a medical peer review body to investigate and resolve discrimination Grievances. DMC plans must not claim that a discrimination Grievance investigation or resolution is confidential under Evidence Code section 1157 and/or Business and Professions Code section 805. Concurrent or subsequent referral of a discrimination Grievance to a peer review body for Provider disciplinary or credentialing purposes may be appropriate if quality of care issues are implicated, or if required by the DMC plan Contract.

DMC plans are required to forward to DHCS copies of all Member Grievances alleging discrimination on the basis of any characteristic protected by federal or state nondiscrimination law. This includes, without limitation, sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identity, sexual orientation, creed, health status, or identification with any other persons or groups defined in Penal Code section 422.56. This requirement includes language

⁴² 45 CFR section 92.7; W&I section 14029.91(e)(4); 45 CFR section 84.7; 34 CFR section 106.8; 28 CFR section 35.107; and California's Medicaid State Plan, Section 7, Attachments 7.2-A and 7.2-B, available at: <https://www.dhcs.ca.gov/formsandpubs/laws/Pages/Section7.aspx>. See also GC section 11135.

⁴³ See, e.g., 45 CFR section 84.7; 34 CFR section 106.8; 28 CFR section 35.107.

⁴⁴ [APL 22-006: Grievance and Appeals Requirements Notice and "Your Rights" Templates \(Supersedes APL 20-003\)](#).

⁴⁵ 45 CFR section 92.7.

access complaints and complaints alleging failure to make reasonable accommodations under the ADA.

Within ten (10) calendar days of mailing a discrimination Grievance resolution letter to a Member, DMC plans must submit detailed information regarding the Grievance to DHCS OCR's designated discrimination Grievance email box. DMC plans must submit the following information in a secure format to DHCS.DiscriminationGrievances@dhcs.ca.gov

1. The original complaint;
2. The Provider's or other accused party's response to the Grievance;
3. Contact information for the DMC plans personnel responsible for the DMC plans investigation and response to the Grievance;
4. Contact information for the Member filing the Grievance and for the Provider or other accused party that is the subject of the Grievance;
5. All correspondence with the Member regarding the Grievance, including the Grievance acknowledgment and Grievance resolution letter(s) sent to the Member; and
6. The results of the DMC plans investigation, copies of any corrective action taken, and any other information that is relevant to the allegation of discrimination.

Additionally, DMC plans are required to attest that they are sending the aforementioned required information to the DHCS OCR by providing an attestation, signed by the DMC plan's discrimination Grievance Coordinator, each calendar year by December 31 via the dmcdeliverables@dhcs.ca.gov.

Under 45 CFR section 92.8(c)(2), DMC plans are required to retain records related to Grievance alleging discrimination on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender, gender identify or sexual orientation in its health programs and activities for no less than three calendar years from the date the DMC plans resolves the Grievance. The records must include the Grievance, the name and contact information of the complainant, if provided; the alleged discriminatory action and alleged basis of discrimination; the date the Grievance was filed; the date the Grievance was resolved, the Grievance resolution, and any other pertinent information.

Language Assistance - Notice of Availability

DHCS determined the Notice of Availability requirements in this APL based on a combination of federal and state law and DHCS policy. DMC plans are required to provide the Notice of Availability in a conspicuously visible font size (no less than 12-

point font), in English and the top 18 non-English languages as identified below in this APL and in the DHCS-provided Notice of Availability template that is attached to this APL. The Notice of Availability informs Members, Potential Members, and the public of the availability of free language assistance services, including assistance in non-English languages and the provision of free auxiliary aids and services for people with disabilities.⁴⁶

Like the nondiscrimination notice, the Notice of Availability must be provided upon request, included in the Member Handbook/EOC and other electronic and written communications, posted in clear and prominent physical locations where the DMC plans interacts with the public in at least a 20-point sans serif font, on the DMC plans website in a location that allows any visitor to the website to easily locate the information, and in all Member information and other informational notices, in accordance with federal and state law and this APL.⁴⁷

DMC plans are not prohibited from including in the Notice of Availability languages that exceed those identified for California in this APL.

In 2016, HHS OCR released a Frequently Asked Questions (FAQ) document and included as a resource a table displaying its list of the top 15 languages spoken by individuals with LEP in each state, the District of Columbia, Puerto Rico and each U.S. Territory. HHS OCR created this list for use in identifying languages in which to provide translated taglines. The top 15 non-English languages spoken by LEP individuals in California, as identified by HHS OCR in 2016, were Arabic, Armenian, Cambodian, Chinese, Farsi, Hindi, Hmong, Japanese, Korean, Punjabi, Russian, Spanish, Tagalog, Thai, and Vietnamese. Although state law, and now federal law, only requires that the Notice of Availability be provided in the top 15 non-English languages in California, DHCS made a policy decision to align the DMC plans- required Notice of Availability languages with those used in Medi-Cal FFS for consistency between programs. As a result, in addition to the top 15 non-English languages spoken by Members with LEP in California, as identified by HHS OCR in 2016, DMC plans must also provide the Notice of Availability in Laotian, Ukrainian and Mien (i.e.; English and 18 non-English languages).

Language Assistance Services – Meaningful Access

DMC plans must take reasonable steps to provide meaningful access to each Member with LEP (including Member companions with LEP) eligible for services or likely to be affected by the DMC plans health programs and activities.⁴⁸ Language assistance services must be provided free of charge, be accurate and timely, and protect the privacy and independent decision-making ability of the Member with LEP.⁴⁹ There are two primary types of language assistance services: oral and written. Members with LEP are not required to accept language assistance services⁵⁰, although a qualified

⁴⁶ 42 CFR section 438.10(d)(2)-(3); 45 CFR section 92.11(a).

⁴⁷ 45 CFR section 92.11(c); W&I section 14029.91(f).

⁴⁸ 45 CFR 92.201(a).

⁴⁹ 45 CFR section 92.201(b).

⁵⁰ 45 CFR section 92.201(h).

interpreter may be used to assist in communicating with a Member with LEP who has refused language assistance services.⁵¹

Oral Interpretation

DMC plans must provide oral interpretation services from a qualified interpreter (see qualifications below), on a 24-hour basis, at all key points of contact,⁵² at no cost to Members.⁵³ Oral interpretation must be provided in all languages and is not limited to threshold or concentration standard languages.

Interpretation can take place in-person, through a telephonic interpreter, or via internet or video remote interpreting (VRI) services. However, DMC plans are prohibited from using audio remote or VRI services that do not comply with federal quality standards,⁵⁴ or relying on unqualified bilingual/multilingual staff, interpreters, or translators.⁵⁵ DMC plans should not solely rely on telephone language lines for interpreter services. Rather, telephonic interpreter services should supplement face-to-face interpreter services, which are a more effective means of communication.

An interpreter is a person who renders a message spoken in one language into one or more languages. An interpreter must be qualified and have knowledge in both languages of the relevant terms or concepts particular to the program or activity and the dialect spoken by the Member with LEP. In order to be considered a qualified interpreter for an Member with LEP, the interpreter must: 1) Has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language (qualified interpreters for relay interpretation must demonstrate proficiency in two non-English spoken languages); 2) be able to interpret effectively, accurately, and impartially to and from such language(s) and English (or between two non-English languages for relay interpretation), using any necessary specialized vocabulary or terms without changes, omissions, or additions and while preserving the tone, sentiment, and emotional level of the original oral statement; and 3) adhere to generally accepted interpreter ethics principles, including client confidentiality.⁵⁶

DMC plans that provide a qualified interpreter for a Member with LEP through audio remote interpreting services must provide real-time audio over a dedicated high-speed, wide bandwidth video connection or wireless connection that delivers high-quality audio without lags or irregular pauses in communication; a clear, audible transmission of

⁵¹ Per 45 CFR 92.201(c)(3), if a covered entity uses machine translation when the underlying text is critical to the rights, benefits, or meaningful access of an individual with limited English proficiency, when accuracy is essential, or when the source documents or materials contain complex, non-literal or technical language, the translation must be reviewed by a qualified human translator. The definition of "Machine Translation" can be found at 45 CFR section 92.4

⁵² Per the DMC contract, key points of contact include dental care settings (e.g., telephone, advice and urgent care transactions, and encounters with health care providers, including pharmacists) and non-medical care settings (e.g., member services, orientations, and appointment scheduling).

⁵³ See 45 CFR section 92.201(c)(1); 42 CFR section 438.10(d)(2) and (d)(4); and W&I section 14029.91(a).

⁵⁴ See 45 CFR section 92.201(g); 45 CFR section 92.201(f); 28 CFR section 35.160(d); and 28 CFR section 36.303(f).

⁵⁵ 45 CFR section 92.201(4).

⁵⁶ W&I section 14029.91(a)(1)(B). The definition of "relay interpretation" and "qualified interpreter for an individual with limited English proficiency" can be found at 45 CFR section 92.4.

voices; and adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the remote interpreting services.⁵⁷

DMC plans must not require Members with LEP to provide their own interpreters or pay for the cost of their own interpreter, or rely on staff who are not qualified interpreters or qualified bilingual/multilingual staff.⁵⁸ Some bilingual/multilingual staff may be able to communicate effectively in a non-English language when communicating information directly in that language but may not be competent to interpret in and out of English. Bilingual/multilingual staff may be used to communicate directly with Members with LEP only when they have demonstrated to the DMC plans that they meet all of the qualifications of a qualified bilingual/multilingual interpreter listed above.⁵⁹

Further, the use of family members, friends, and particularly minor children as interpreters may compromise communications with Members with LEP. Members with LEP may be reluctant to reveal personal and confidential information in front of these individuals. In addition, family members, friends, and minor children may not be trained in interpretation skills and may lack familiarity with specialized terminology. As a result, use of such persons could result in inaccurate or incomplete communications, a breach of the Member with LEP's confidentiality, or reluctance on the part of the Member with LEP to reveal critical information.

DMC plans are prohibited from relying on an adult not qualified as an interpreter, or minor child accompanying an LEP Member to interpret or facilitate communication except:

1. As a temporary measure when there is an emergency involving an imminent threat to the safety or welfare of the Member or the public and a qualified interpreter is not immediately available; or,
2. If the LEP Member specifically requests that an accompanying adult interpret or facilitate communication. This request must be done in private with a qualified interpreter present and without an accompanying adult present. Additionally, the accompanying adult must agree to provide that assistance, the request and agreement is documented, and reliance on that accompanying adult for that assistance is appropriate under the circumstances.⁶⁰

Prior to using a family member, friend or, in an emergency only, a minor child as an interpreter for an LEP Member, DMC plans must first inform the Member that they have the right to free interpreter services and second, ensure that the use of such an interpreter will not compromise the effectiveness of services or violate the Member with

⁵⁷ 45 CFR section 92.201(g).

⁵⁸ 45 CFR section 92.201(e)(1) and (4); W&I section 14029.91(a)(1)(C).

⁵⁹ W&I section 14029.91(a)(1)(C).

⁶⁰ W&I section 14029.91(a)(1)(D); 45 CFR 92.201(e)(2)(ii).

LEP's confidentiality. DMC plans must also ensure that the Member with LEP's refusal of free interpreter services and their request to use family members, friends, or a minor child as an interpreter is documented in the medical record.

Written Translation

Translation is the replacement of written text from one language into another. DMC plans must use a qualified translator when translating written content in paper or electronic form.⁶¹ A qualified translator is a translator who: 1) adheres to generally accepted translator ethics principles, including client confidentiality; 2) has demonstrated proficiency in writing and understanding both written English and the written non-English language(s) in need of translation; and, 3) is able to translate accurately, effectively, and impartially to and from such language(s) and English, using any necessary specialized vocabulary or terms without changes, omissions, or additions and while preserving the tone, sentiment, and emotional level of the original written statement.⁶² At a minimum, DMC plans must provide written translations of Member information in the threshold and concentration languages identified in this APL in the DHCS Threshold and Concentration Language Requirements section. In that same section of this APL, DHCS has also provided an explanation of the information that is considered "Member information" for purposes of this requirement.

Effective Communication with Members with Disabilities

DMC plans must comply with all applicable requirements of federal and state disability law.⁶³ DMC plans are required to take appropriate steps to ensure effective communication with Members with disabilities and companions with disabilities.^{64 65} DMC plans must provide appropriate auxiliary aids and services to Members with disabilities including the provision of qualified interpreters and written materials in alternative formats, free of charge, in accessible formats, in a timely manner, and in such a way to protect the Member's privacy when such aids and services are necessary to ensure that Members with disabilities have an equal opportunity to participate in, or enjoy the benefits of, the DMC plans services, programs, and activities.⁶⁶ Without limitation, DMC plans must provide interpretive services and make Member information available in the following alternative formats: Braille, audio format, large print (no less than 20 point font), and accessible electronic format (such as a data CD). In determining what types of auxiliary aids and services are necessary, DMC plans must give "primary consideration" to the individual's request of a particular auxiliary aid or service.⁶⁷ DHCS

⁶¹ See 45 CFR section 92.202(b).

⁶² The definition of a "qualified translator" is found under 45 CFR section 92.4.

⁶³ Without limitation, DMC plans must comply with Section 1557 of the ACA, Title II of the ADA, Section 504 of the Rehabilitation Act, and GOV 11135.

⁶⁴ 45 CFR section 92.202; 28 CFR section 35.160-35.164.

⁶⁵ Per 28 CFR 35.160(a)(2), "companion" means a family member, friend, or associate of an individual seeking access to a service, program, or activity of a public entity, who, along with such individual, is an appropriate person with whom the public entity should communicate.

⁶⁶ 28 CFR section 35.160; 45 CFR section 92.202(b).

⁶⁷ 28 CFR section 35.160(b)(2).

expects DMC plans to collect and store Members' alternative format selections. In 2022, DHCS posted an Alternate Format Data Process Guide for the ongoing process for DMC plans and their Subcontractors and Network Providers to submit new Member Alternative Format Selection (AFS) requests.⁶⁸ This contains the steps required for regular reporting of AFS information to DHCS. DHCS sends a weekly file to the DMC plans from the DHCS Alternative Format database. DMC plans will use this file to deploy the alternative format requested by the Member. Additionally, DMC plans are to share AFS data with their Subcontractors and Network Providers as appropriate.

Auxiliary aids and services include:

- Qualified interpreters on-site or through VRI services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible information and communication technology; or other effective methods of making aurally delivered information available to Members who are deaf or hard of hearing.
- Qualified readers; taped texts; audio recordings; Braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs; large print materials (no less than 20 point font); accessible information and communication technology; or other effective methods of making visually delivered materials available to Members who are blind or have low vision.⁶⁹

When providing interpretive services, DMC plans must use qualified interpreters to interpret for a Member with a disability, whether through a video remote interpreting service or an on-site appearance. A qualified interpreter for a Member with a disability is an interpreter who.⁷⁰

1. Adheres to generally accepted interpreter ethics principals, including client confidentiality; and

⁶⁸ The Alternate Format Data Process Guide is available at: <https://www.dhcs.ca.gov/services/Documents/AFS-Data-Process-Guide.pdf> See APL 22-011, or any superseding APL, for additional information on AFS.

⁶⁹ The definition of "auxiliary aids and services" can be found under 45 CFR section 92.4.

⁷⁰ 45 CFR section 92.4

2. Is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary, terminology, and phraseology without changes, omissions, or additions while preserving the tone, sentiment, and emotional level of the original statement and⁷¹
3. Has demonstrated proficiency in communicating in and understanding English and a non-English language (including American Sign Language) or another communication modality such as cued-language transliterators or oral transliterators.

For a Member with a disability, qualified interpreters can include, for example, sign language interpreters, oral transliterators (individuals who represent or spell in the characters of another alphabet), and cued language transliterators (individuals who represent or spell by using a small number of handshapes).

DMC plans that provide a qualified interpreter for an Member with a disability through VRI services must provide real-time, full-motion video and audio over a dedicated highspeed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, and the participating individual's face, arms, hands, and fingers, regardless of body position; a clear, audible transmission of voices; and adequate training to users of the technology and other involved individuals so that they may quickly and efficiently set up and operate the VRI.⁷²

DMC plans must not require a Member with a disability to provide their own interpreter. Moreover, DMC plans are prohibited from relying on an adult or minor child accompanying a Member with a disability to interpret or facilitate communication except when: 1) there is an emergency involving an imminent threat to the safety or welfare of the Member or the public and a qualified interpreter is not immediately available; or, 2) the Member with a disability specifically requests that an accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide that assistance, and reliance on that accompanying adult for that assistance is appropriate under the circumstances.⁷³ Prior to using a family member, friend, or, in an emergency only, a minor child as an interpreter for a Member with a disability, DMC plans must first inform the Member that they have the right to free interpreter services and second, ensure that the use of such an interpreter will not compromise the effectiveness of services or violate the individual's confidentiality. DMC plans must also ensure that the refusal of free interpreter services and the Member's request to use a family member, friend, or a minor child as an interpreter is documented in the medical record.

⁷¹ The definition of "qualified interpreter for an individual with a disability" can be found under 45 CFR section 92.4

⁷² 28 CFR section 35.160(d); 28 CFR section 36.303(f)

⁷³ 28 CFR section 35.160(c); 28 CFR section 36.303(c)

In addition to requiring effective communication with Members with disabilities, HHS OCR regulations pursuant to Section 1557 incorporate other long-standing requirements of federal law prohibiting discrimination based on disability.⁷⁴ DMC plans are reminded that they must make reasonable modifications to policies, practices, or procedures when such modifications are necessary to avoid discrimination based on disability. This could include, for example, assisting a Member who cannot write to fill out required forms, even when such assistance is not generally provided to Members without a disability.

REQUIREMENTS:

DMC plans must submit policies and procedures (P&Ps) demonstrating their compliance with the ADA, Section 504 of the Rehabilitation Act, Section 1557, including the implementing federal regulations, SB 223, SB 1423, and GC 11135, and must update and resubmit these policies and procedures to DHCS following any substantive change in federal or state nondiscrimination law. DMC plan's policies and procedures must ensure that, upon a substantive change in federal or state nondiscrimination law, training regarding the change will be incorporated into one or more appropriate existing, regularly scheduled DMC plans staff trainings.

As stated above, DMC plans must comply with the updated threshold and concentration language dataset by November 11, 2025, and begin providing translated written Member information, as required, in these languages.

If the requirements contained in this APL, including any updates or revisions to this APL, necessitate a change in a DMC plan's contractually required P&P, the plan must submit its updated P&Ps with and without Track Changes to DHCS at dmcdeliverables@dhcs.ca.gov within 90 days of the release of this APL.

If a DMC plan determines that no P&P changes are necessary, the plan must submit an email confirmation to dmcdeliverables@dhcs.ca.gov within 10 days of the release of this APL, stating that the plan's P&Ps have been reviewed and no changes are necessary. The email confirmation must include the title of this APL as well as the applicable APL release date in the subject line.

DMC plans are responsible for ensuring that their Subcontractors, Downstream Subcontractors, and Network Providers comply with all applicable state and federal laws and regulations, Contract requirements, and other DHCS guidance, including APLs and Policy Letters. These requirements must be communicated by each DMC plan to all Subcontractors and Network Providers. DHCS may impose Corrective Action DMC plans (CAP), as well as administrative and/or monetary sanctions for non-compliance. DMC plans should review their Network Provider, Subcontractor, and/or Downstream Subcontractor Agreements, including Division of Financial Responsibility provisions as appropriate, to ensure compliance with this APL.

⁷⁴ 42 CFR section 35.160(c); 28 CFR section 36.303(c)

For additional information regarding administrative and monetary sanctions, see APL 22-009⁷⁵, and any subsequent iterations on this topic. Any failure to meet the requirements of this APL may result in a CAP and subsequent sanctions.

If you have any questions regarding this APL, please contact the DHCS at dmcdeliverables@dhcs.ca.gov.

Sincerely,

Dana Durham
Chief, Medi-Cal Dental Services Division
Department of Health Care Services

Enclosures: Threshold and Concentration Language for All Counties
Notice of Nondiscrimination Template
Notice of Availability Template
Statement of Nondiscrimination for Small Sized Notices Template

⁷⁵ [APL 22-009; Enforcement Actions: Administrative and Monetary Sanctions \(Supersedes APL 13-004\)](#)