

Big Horn Rehabilitation & Care Center

RESIDENTS AND FAMILIES WITH LIMITED ENGLISH PROFICIENCY POLICY AND PROCEDURE

Effective Date: June 2024

PURPOSE

To ensure that Big Horn Rehabilitation & Care Center (the "Facility") any and all owners, directors, officers, employees, contractors, patients, customers, agency staff, medical staff, subcontractors, agents, or people in other roles, or a subset of the above, and volunteers (collectively, "Relevant Individuals"), provide meaningful access to care for those residents and their families with limited English proficiency.

POLICY

The Facility serves a diverse population and respects the rights of all residents to receive the culturally competent care that they need for their health and well-being. Residents have the right to be informed of their total health status and notice of all their legal rights and services both orally and in writing in a format and language the resident understands.

In compliance with the Language Access Provisions of the final rule implementing Section 1557 of the Affordable Care Act ("the Rule"), in order to provide meaningful access to care for individuals whose primary language is not English and have limited ability to read, write, speak, or understand English ("LEP"), it is the policy of the Facility to ensure that residents and their families are provided with timely and accurate language assistance services, and to ensure that residents and their families are notified as to the availability of the service. Accordingly, the Facility provides residents and their family members with a Notice of Availability of Language Assistance Services and Auxiliary Aids, which states that language assistance services are provided free of charge when necessary. The Notice of Availability is provided in English and at least the 15 most commonly spoken languages by individuals with LEP in the state where the Facility operates, as well as in alternate formats, such as braille or large print, for individuals with disabilities.

PROCEDURE

I. Definitions

- A. "Individual with LEP" means an individual whose primary language for communication is not English and who has a limited ability to read, write, speak, or understand English. An individual with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but still be limited English proficient for other purposes (e.g., reading or writing).
- B. "Language Assistance Services" means services that may include, but are not limited to, Qualified Interpreters and translated materials that are provided free of charge, are accurate and timely, and protect the privacy and independent decision-making ability of the individual with LEP.
- C. "Machine Translation" means an automated translation that is text based and provides instant translations between various languages.
- D. "Meaningful Access" means ensuring that language barriers do not prevent individuals from obtaining necessary health services and care. Cultural competency, including considerations of variations in dialects, expressions, or "regionalisms," is a key factor in providing accurate interpretation and translation. "Qualified Interpreter" means someone who, via a remote interpreting service or an on-site appearance:
 - a. Has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language;
 - b. Is able to interpret effectively, accurately, 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 oral statement; and
 - c. Adheres to generally accepted interpreter ethics principles, including client confidentiality.
 - i. An individual self-identified as proficient in the target language alone shall be insufficient to determine whether they meet the level of proficiency required under the Rule.

E. "Qualified Translator" means someone who:

- a. has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language;
- b. is able to translate effectively, accurately, 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; and
- c. adheres to generally accepted translator ethics principles, including client confidentiality.
- d. The Facility will be mindful when relying on bilingual employees to translate, especially when the employee has self-identified as proficient in the target language because an individual's self-identified proficiency in the target language alone is insufficient to determine whether they meet the Qualified Translator standard required under the Rule.

II. Language Assistance Services

- A. The Facility will offer language services free of charge to individuals with LEP. The language services will be:
 - a. Timely, and accurate,
 - b. will protect the privacy and independent decision-making ability of the individual with LEP, and
 - c. will take place in settings that preserve resident privacy.
- B. Language services may include, but are not limited to:
 - a. Qualified Interpreters, and
 - b. Translated materials.

III. Use of a Qualified Interpreter

- A. The Facility will be mindful regarding its choice of a Qualified Interpreter because a person who speaks both English and the target language may not necessarily be comfortable serving as an interpreter and may not be qualified as a Qualified Interpreter under the Rule.
- B. Individuals with LEP may choose to use a family member or friend as a Qualified Interpreter. In these cases, documentation should

be placed in the resident's medical record and care plan indicating that the resident was informed as to the availability of free language services.

- C. The Facility will inform individuals with LEP and their family members how to access language services such as Qualified Interpreters; the names of any qualified bilingual staff members; and will provide a list of any electronic and written translated materials the Facility has, the languages they are translated into, date of issuance, and how to access electronic translations.

IV. Use of Machine Translation/Artificial Intelligence ("AI")

- A. The Facility shall ensure that AI technologies are deployed in a responsible manner that does not negatively impact the rights of those being served.
- B. If the Facility uses Machine Translation when the underlying text is critical to the rights, benefits, or meaningful access of the individual with LEP, when accuracy is essential, or when the source documents or materials contain complex, non-literal or technical language, the translation will be reviewed by a qualified human translator.
- C. Translating Documents Accurately.
 - a. AI translation that is used for critical documents shall be reviewed by a qualified human translator to ensure accuracy when:
 - i. Accuracy is essential,
 - ii. The source documents or materials contain complex, nonliteral or technical language, or
 - iii. The underlying text is critical to the rights, benefits, or meaningful access of individuals with LEP.
- D. Exigent Circumstances
 - a. During exigent circumstances when it is not feasible for a Qualified Translator to proofread an AI-generated translation until after the exigency has passed, the Facility shall ensure that the AI translation will be subsequently checked by a Qualified Translator.

- V. Restricted use of certain persons to interpret or facilitate communication. The Facility will not, in its health programs and activities:
 - A. Require an individual with LEP to provide their own interpreter, or to pay the cost of their own interpreter;
 - B. Rely on an adult, not qualified as an interpreter, to interpret or facilitate communication, except:
 - a. As a temporary measure, while finding a Qualified Interpreter in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no Qualified Interpreter for the individual with LEP immediately available and the Qualified Interpreter that arrives confirms or supplements the initial communications with an initial adult interpreter; or
 - b. Where the individual with LEP specifically requests, in private with a Qualified Interpreter present and without an accompanying adult present, that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, the request and agreement by the accompanying adult is documented, and reliance on that adult for such assistance is appropriate under the circumstances;
 - C. Rely on a minor child to interpret or facilitate communication, except as a temporary measure while finding a Qualified Interpreter in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no Qualified Interpreter for the individual with LEP immediately available and the Qualified Interpreter that arrives confirms or supplements the initial communications with the minor child; or
 - D. Rely on staff other than Qualified Interpreters, Qualified Translators, or qualified bilingual/multilingual staff to communicate with individuals with LEP.
- VI. Video Remote Interpreting Services.
 - A. If the Facility provides a Qualified Interpreter for an individual with LEP through video remote interpreting services the Facility will ensure the modality allows for meaningful access and provides:

- a. Real-time, full-motion video and audio over a dedicated high-speed, 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;
- b. A sharply delineated image that is large enough to display the interpreter's face and the participating person's face regardless of the person's body position;
- c. A clear, audible transmission of voices; and
- d. Adequate training to users of the technology and other involved persons so that they may quickly and efficiently set up and operate the video remote interpreting.

VII. Audio Remote Interpreting Services.

- A. If the Facility provides a Qualified Interpreter for an individual with LEP through audio remote interpreting services, the Facility will ensure the modality allows for meaningful access and provides:
 - a. Real-time audio over a dedicated high-speed, wide-bandwidth connection or wireless connection that delivers high-quality audio without lags or irregular pauses in communication;
 - b. A clear, audible transmission of voices; and
 - c. Adequate training to users of the technology and other involved persons so that they may quickly and efficiently set up and operate the remote interpreting services.

VIII. Using Assessments to Meet the Cultural and Language Needs of Residents

- A. Inability for a resident to make his/her needs known and to engage in social interaction because of a language barrier can result in isolation, depression, and unmet needs. Language barriers can also interfere with accurate assessment.
- B. The Facility will assess each resident to ascertain whether the resident has LEP, including, but not limited to, using MDS Section A to identify the resident's preferred language and whether the resident wants or needs an interpreter.
- C. The Facility shall also use its Facility Assessment (See CCG Facility Assessment Tool) to identify resident populations having unique

cultural characteristics, such as language (including American Sign Language), religious or cultural practices, values, and preferences.

IX. General Guidance for Continued LEP Effectiveness and Compliance

A. The Facility should:

- a. Identify and assess the language needs of the populations it serves or are likely to serve,
- b. Establish and implement clear procedures for providing language assistance services,
- c. Ensure all staff members are trained on the requirements of the Rule and this policy,
- d. Ensure that staff understand how to access and provide language assistance services,
- e. Provide Qualified Translators to ensure accurate and meaningful communication, and
- f. Regularly monitoring and evaluate the effectiveness of language assistance services and make necessary adjustments to improve access.

X. Required Notices

A. Notice of Availability of Language Assistance Services and Auxiliary Aids

- a. The Facility will provide residents and family members with a Notice of Availability of Language Assistance Services and Auxiliary Aids ("Notice of Availability") (See CCG 00509a Notice of Availability of Language Services and Auxiliary Aids **Poster**).
- b. The Notice of Availability will state that language assistance services and auxiliary aids are provided free of charge when necessary for compliance with Section 1557.
- c. The Notice of Availability will be provided in English and at least the 15 most commonly spoken languages by individuals with LEP in the state or states in which the Facility operates, as well as in alternate formats for individuals with disabilities.
- d. The Facility will also post the Notice of Availability in conspicuous locations on its website, and in clear and prominent physical locations where it is reasonable to

expect individuals to seek services, in no smaller than 20-point sans serif font, and in various electronic and written communications, including application forms, notices of eligibility, and communications related to public health emergencies and medical procedures.

- e. The Facility will also provide residents with the Notice of Availability:
 - i. annually, and
 - ii. upon request.

B. Notice of Nondiscrimination

- a. A Notice of Nondiscrimination shall be provided pursuant to applicable laws regulations. See CCG 00503 Resident Nondiscrimination Notice Policy and Procedure for full guidance.

- XI. Acceptance of language assistance services is not required. Nothing in this policy shall be construed to require an individual with LEP to accept language assistance services.
- XII. The Facility's Compliance and Ethics Officer/Section 1557 Coordinator shall be responsible for ensuring compliance with this policy and procedure.