



Origination:	06/2017
Effective:	07/2019
Last Approved:	07/2019
Last Revised:	07/2019
Next Review:	07/2020
Owner:	<i>Michele Vasconcellos: Director, Customer Service</i>
Policy Area:	<i>Customer Service</i>
References:	<i>LTSS 1, NCQA RR 2B, NCQA RR 3A, UM 3</i>

## Limited English Proficiency (LEP)

### POLICY

It is the policy of the Detroit Wayne Mental Health Authority (DWMHA) that no individual on the basis of Limited English Proficiency (LEP) will be denied benefits or subjected to discrimination by any program funded by DWMHA.

### PURPOSE

To ensure that there shall be equal access for persons with LEP.

### APPLICATION

1. The following groups are required to implement and adhere to this policy: All DWMHA Staff, Contractual Staff, Access Center, Service Providers, Mobile Crisis Stabilization Team, Crisis Call Center.
2. This policy serves the following populations: Adults, Children, I/DD, SMI, SEI/SED, SUD, Autism
3. This policy impacts the following contracts/service lines: Medicaid, MI-HEALTH LINK, SUD, Autism, Grants, and General Fund.

### KEYWORDS

1. Affiliate
2. Direct Contractor
3. Interpretation
4. Service Providers
5. Persons with Limited English Proficiency (LEP)
6. Persons Eligible to be Served or Likely to be Directly Affected
7. Safe Harbor
8. Service Area
9. Subcontractor
10. Translation
11. Vital Document

# STANDARDS

DWMHA Service Providers must take reasonable steps to provide persons with LEP with meaningful access and opportunities to participate in DWMHA funded programs in an accurate and timely fashion and must protect their privacy and independence by doing the following:

1. Develop policies and procedures that will ensure language assistance is available and accessible to persons with LEP.
  - a. Members will not be charged for services related to LEP.
2. Ensure all services, programs and activities shall be available to persons with LEP.
3. Provide adequate information to enable persons with LEP to understand the types of services and benefits available.
4. Ensure meaningful access by persons with LEP to critical services while not imposing undue burdens on the entity. Conduct an individualized assessment that balances the following four factors:
  - a. The number or proportion of LEP persons eligible to be served or likely to be encountered. This may be obtained through an examination of the latest census data for the area served. The greater number or proportion, the more likely additional language services will be required.
  - b. The frequency with which LEP individuals come in contact with the program. The more frequent the contact with a particular language group, the more likely that enhanced language services are needed. (E.g., a program that encounters LEP persons on daily basis will have a greater obligation than a program that encounters LEP persons sporadically).
  - c. The nature, importance, and urgency of the program. The more essential the activity, the more likely that language services are needed. (E.g., the communication of rights to a person whose benefits are being terminated).
  - d. The resources available to provide effective language assistance.
5. Reasonable steps may cease to be "reasonable" when imposed costs exceed the benefits. A range of language assistance which may include:
  - a. Sign language interpreters for individuals with hearing impairments or limitations.
  - b. Alternative formats such as large print or Braille for individuals with visual impairments or limitations.
  - c. Interpretation of oral conversations or written materials for individuals that are non-English speaking.
  - d. Contracting outside interpreter services for training and competent interpretation.
  - e. Formally arranging for the services of trained and skilled voluntary community interpreters, which includes testing for a level of fluency.
  - f. Arranging for the use of a telephone language interpreter service. This may be used as a supplemental system or when other resources cannot accommodate the requested language.
  - g. Ensuring that interpreters are familiar with terminology used in the provision of mental health and substance abuse services.
  - h. Ensuring that vital documents are available in languages other than English of each regularly encountered LEP group eligible to be served or likely to be affected by the program.
  - i. Ensuring access by providing notices in writing, in the LEP individual's primary language, of the right to receive free language assistance in a language other than English. That would include the right to

a competent oral translation of written materials free of cost. Notices can be provided by, but not limited to:

1. Use of language identification cards which allow LEP beneficiaries to identify their language needs. A message on the card must invite the LEP person to identify the language he or she speaks. Identification must be included in the individual records.
  2. Posting signs in regularly encountered languages (in accordance with Federal Safe Harbor Guidelines) other than English in waiting rooms, reception areas and other initial points of entry. These signs must inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing services.
  3. Uniform procedures for timely and effective communication between staff and LEP individuals. This includes instructions for English speaking employees to obtain assistance from interpreters or bilingual staff when receiving calls from, or initiating calls to LEP individuals.
  4. Inclusion of statements about services available and the right to free language assistance services, in applicable non-English languages in brochures, booklets, outreach, and recruitment information and other materials routinely disseminated to the public.
  5. Disseminating Limited English Proficiency policy to staff, (i.e., through staff training, initial orientation, memorandum, etc.). Providing training to new employees and periodic training to other staff to ensure staff are:
    - i. Knowledgeable and aware of LEP policies and procedures
    - ii. Respectful of persons who have limited ability to comprehend English
    - iii. Trained to work effectively with interpreters
  6. Monitoring its language assistance program annually to assess:
    - i. The current LEP makeup of its service area
    - ii. The current communication needs of LEP applicants and consumers
    - iii. Whether existing assistance is meeting the needs of such persons
    - iv. Whether staff is knowledgeable about policies and methods of implementation
    - v. Whether sources for assistance are still current and viable
    - vi. If modifications are needed
6. Ensuring that DWMHA, and Service Providers may not:
- a. Require an individual with LEP to provide his or her own interpreter;
  - b. Rely on an adult accompanying an individual with LEP to interpret, except:
    1. In an emergency and there are no qualified interpreters for the individual with LEP immediately available.
    2. If the individual with LEP specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate.
  - c. Rely on a minor child to interpret or facilitate communication, except:
    1. In an emergency and there are no qualified interpreters for the individual with LEP immediately available.

- d. Rely on unqualified staff members to communicate with individuals with LEP.
  - e. Rely on low-quality video remote interpreting services when providing language assistance services.
7. DWMHA, and Service Providers must also use a qualified translator. Someone who;
- a. Translates effectively, accurately, and impartially.
  - b. Adheres to generally accepted translator ethics and principles including confidentiality and,
  - c. Is proficient in both written English and at least one other written non-English language, including any necessary specialized vocabulary, terminology, and phraseology.
8. The Access Center and Service Providers are expected to develop their policies in alignment with DWMHA directives.

## **QUALITY ASSURANCE/IMPROVEMENT**

The DWMHA shall review and monitor contractor adherence to this policy as one element in its network management program, and as one element of the QAPIP Goals and Objectives.

The quality improvement programs of Service Providers must include measures for both the monitoring of and the continuous improvement of the programs or processes described in this policy.

## **COMPLIANCE WITH ALL APPLICABLE LAWS**

DWMHA staff, and Service Providers are bound by all applicable local, State and Federal laws, rules, regulations and policies, all Federal waiver requirements, State and County contractual requirements, policies, and administrative directives, as amended.

## **LEGAL AUTHORITY**

1. Michigan Mental Health Code, PA 258 of 1974, as amended, Suitable Services; treatment environment; setting; rights, MCL 330.1708.
2. Michigan Department of Community Health/Community Mental Health Service Provider Managed Specialty Supports and Services Contract, section 3.12, Compliance with Civil Rights, 1998-2002
3. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et. seq.
4. Federal Department of Health and Human Services, Office for Civil Rights, LEP Policy Guidance, 65 Fed. Reg. 52761 (08/30/00).
5. Title II, Americans with Disabilities Act of 1990, Public Law 101-336.
6. Michigan Department of Community Health, Application for Participation 2013
7. Section 1557 of the Affordable Care Act new requirements regarding non-discrimination.

## **RELATED POLICIES**

1. Communication using the Teletype Device, Michigan Relay Service, and/or other Communication Devices.\
2. [Limited English Proficiency Procedure](#) internal to DWMHA

# RELATED DEPARTMENTS

1. Administration
2. Clinical Practice Improvement
3. Compliance
4. Integrated Health Care
5. Managed Care Operations
6. Quality Improvement
7. Utilization Management
8. Recipient Rights
9. Residential
10. Substance Use Disorders

# CLINICAL POLICY

NO

# INTERNAL/EXTERNAL POLICY

EXTERNAL

## Attachments:

No Attachments

### Approval Signatures

**Approver**

**Date**

Dana Lasenby: Chief Clinical Officer

07/2019

