



July 25, 2011

On behalf of Heartland Alliance's National Immigrant Justice Center (NIJC), I wish to express my deep concern of the 10% threshold for translation and oral interpretation of private plan materials in the internal review and appeals contexts.

Based in Chicago, NIJC provides direct legal services to and advocates for immigrants, refugees, and asylum seekers through national policy reform, impact litigation, and public education. With a highly experienced staff of 40 attorneys and paralegals and more than 1,000 active *pro bono* partners, NIJC is one of the largest legal service providers for low-income immigrants and refugees in the country.

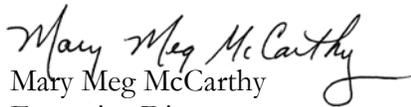
Each year we work with thousands of limited English proficiency (LEP) individuals. We are well-versed in the enormous challenges that face LEP individuals as they attempt to navigate legal and administrative systems, as well as institutions and agencies in the public and private sectors. Language access is critical to enable our clients, who are often fleeing persecution and abuse, to successfully and meaningfully integrate into U.S. society. Language access is critical for our clients to overcome cultural, social, and economic barriers that they face on a continual and daily basis. Equally, institutions and agencies that interact with our clients benefit significantly from the availability of LEP-relevant materials, which facilitate a more effective, expeditious, and less resource-intensive process for all involved.

The 10% standard envisaged under the proposed regulations for translation and oral interpretation of private plan materials in the internal review and appeals contexts is far too high. We fear that it will have an enormous impact on our clients. A more appropriate standard would be "5% of the plan's population or 500 persons in plan's service area" for large group plans, and 25% of population for small plans. Oral interpretation should be provided in all languages at all times. As we service a sizable Latino population, it is alarming to us that even Spanish-speakers will potentially fall out of the 10% threshold in most of the country, as only 172 counties currently meet the 10% county population threshold for Spanish (out of 3,143 counties in the United States).

Besides Spanish, the new proposed translation threshold is only met by Navajo communities in three counties (one county each in Arizona, New Mexico, and Utah), Tagalog in two counties (both in Arkansas), and Chinese in one county (in California). Only one county in the entire country would have translations in more than one language: the Aleutians West Census Area (population of 5,505 total persons) which would have Spanish and Tagalog translations.

Based on these deeply concerning statistics we urge you to amend the proposed regulations to ensure that our clients, as well as the millions of other immigrants across the country, are not adversely impacted upon by these unnecessarily high and unfair threshold requirements.

Sincerely,

  
Mary Meg McCarthy  
Executive Director