7.1.24 LINKING NON-ENGLISH-SPEAKING MEMBERS TO BEHAVIORAL HEALTH SERVICES AND USE OF INTERPRETERS

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References:
1. MHP Contract, Exhibit A, Attachment I, MHP Contract, Attachment 11, Item 3, Section 4, DMC-ODS Contract, Exhibit A, Attachment 7, Section 8, Item A-D
2. CCR 1810.410, Section 1557 of the Patient Protection and Affordable Care Act (ACA) (42 U.S.C 18116; Americans with Disabilities Act (ADA) (42 U.S.C. 12101et seq.), 42 C.F.R 438.10, 45 C.F.R. part 92, Welf & Inst. Code 14727. DMH Information Notice 10-17, BHIN 24-007

Policy Owner: Behavioral Health Quality Assurance and Performance Improvement (QAPI), Quality Assurance Manager

Director Signature: **Signature on File**

I. Policy Statement

It is the policy of the Sonoma County Department of Health Services, Behavioral Health Division (DHS-BHD), to ensure that all of its providers comply with the requirements set forth under federal and state laws, as well as contracts between DHS-BHD and the State, related to ensuring effective communication with individuals with disabilities and linking non-English-speaking members to behavioral health services.

II. Scope

This policy applies to all DHS-BHD Covered Persons including employees (full-time, part-time, extra-help), unpaid interns, paid interns, temporary agency workers, registered volunteers, and all individual providers contractually designated as covered persons. Covered Persons do not include Community Based Organization (CBO) staff.

III. Definitions

A. **Auxiliary Aids**: Tools or supports that help people with disabilities communicate effectively. Services include but are not limited to:

1. Qualified interpreters: On-site or through Video Remote Interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; 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); and voice-, text-, and video-based telecommunication products and systems, such as text telephones (TTYs), videophones, and captioned telephones.

2. Readers: Audio recordings; braille materials and displays; screen reader software; magnification software; optical readers; secondary auditory programs; large print materials; accessible information and communication technology; or other effective methods of making visually delivered materials available to individuals who are blind or have low vision.

B. **Disability:** Per the Americans with Disabilities Act (ADA), a person with a disability is someone who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment (such as an individual with a history of cancer that is now in remission); or is regarded as having such an impairment, even if the individual does not currently have a disability (such as a person with visible scars from a severe burn that does not limit any major life activity).

C. **Key Points of Access:**

1. Common points of access to Specialty Mental Health Services (SMHS) include, but are not limited to, the Mental Health Plan's (MHP's) 24-hour toll-free line, the Member Grievance and Appeal Process, MHP contract providers, and any other central access location established by the MHP.

2. Common points of access to Substance Use Disorder (SUD) & Community Recovery Services include but are not limited to, the SUD's 24-hour, 7-day-a-week county access toll-free line; the Member Grievance and Appeal Process; MHP contract providers; or any other central access location established by the MHP.

D. **Member:** An Individual who is enrolled in Medi-Cal, receiving free or low-cost health coverage.

E. **Threshold Language:** A language that has been identified as the primary language, as indicated on the Medi-Cal Eligibility Data System (MEDS) of 3,000

members or five percent of the member population, whichever is lower, in an identified geographic area.

IV. Policy

A. DHS-BHD providers shall provide appropriate auxiliary aids and services to persons with impaired sensory, manual or speaking skills, including the provision of qualified interpreters and written materials in alternative formats, free of charge and in a timely manner, when such aids and services are necessary to ensure that individuals with disabilities have an equal opportunity to participate in, or enjoy the benefits of DHS-BHD covered services, programs, and activities.

1. In determining what types of auxiliary aids and services are necessary, the DHS-BHD provider shall give "primary consideration" to the member's request of a particular auxiliary aid or service.

B. DHS-BHD providers shall provide interpretive services and make member information available (upon request) in the following alternative formats: Braille, audio format, large print (20-point Arial font), and an accessible electronic format (such as a data CD).

C. DHS-BHD providers will ensure the use of qualified interpreters to interpret for an individual with a disability, whether through a remote interpreting service or an on-site appearance. For an individual 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). A qualified interpreter for an individual with a disability is someone who:

1. Adheres to generally accepted interpreter ethics and principles, including member confidentiality.

2. Is able to interpret effectively, accurately, and impartially–both receptively and expressively–using any necessary specialized vocabulary, terminology, and phraseology.

D. DHS-BHD providers shall ensure (when applicable) that a qualified interpreter provided through VRI services is available in real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video or wireless connection that delivers:

1. High-quality video images that do not produce lags, choppy, blurry, or grainy visuals, or irregular pauses in communication;

2. A sharply delineated image that is large enough to display the interpreter's face, arms, hands, and fingers, regardless of body position;

3. Clear, audible transmission of voices; and

4. Adequate training for users of the technology and other involved individuals so they can quickly and efficiently set up and operate the VRI.

E. MHP providers must ensure that an individual with a disability is NOT required to provide their own interpreter.

F. MHP providers are prohibited from relying on an adult accompanying an individual with a disability to interpret or facilitate communication except when:

   a. There is an emergency involving an imminent threat to the safety or welfare of the individual or the public, and a qualified interpreter is not available; or

   b. The individual with a disability specifically requests that an accompanying adult interpret or facilitate communications; the accompanying adult agrees to provide that assistance and reliance on that accompanying adult for that assistance is appropriate under the circumstances.

G. MHP are prohibited from relying on a minor child accompanying an individual with a disability to interpret or facilitate communication except when there is an emergency involving an imminent threat to the safety or welfare of the individual or the public and a qualified interpreter is not available.

H. DHS-BHD providers shall ensure members will have access to culturally and linguistically competent staff or interpreters at all key points of contact and in all DHS-BHD programs

I. DHS-BHD providers shall ensure that the use of a DHS-BHD county-certified bilingual staff member who speaks the primary language of the person seeking treatment, whenever possible. It is expected that DHS-BHD programs will assist each other in this regard to provide essential language services whenever possible. Furthermore, it is the policy to not use family members to interpret for the member, or for the member to interpret for the family; except at the request of the member, and only when the member has been informed of the availability of free interpreter services and declines these services.

V. Procedures

A. Alternative Format Selection and Standards for Linking Non-English-Speaking Members to SMHS.

   1. Alternative Format Selection

All members can identify their alternative format needs. The Department of Health Care Services (DHCS) stores each members selection in its Alternative Format database. The system is updated weekly with members' alternative format selections. The standard alternative format options are large print, audio CD, data CD, and Braille. There are also non-standard alternative formats available by request, including but not limited to:

a. Encrypted Audio CD: Provides the ability to hear Medi-Cal notices and other written information. Files on the CD are protected with a password.

b. Encrypted Data CD: This allows for the use of computer software to read Medi-Cal notices and other written information. Files on the CD are protected with a password.

2. A member may request a non-standard alternative format by calling the Alternative Format Helpline at 1-833-284-0040 or by submitting a request to DHCS's Office of Civil Rights. MHP providers must evaluate the request according to the applicable law.

3. Providers may use the Alternate Format database, identify the member's identified alternate format (if any) preference for receiving information.

4. Provide all communications to the member in the selected standard and non-started alternative formats.

5. In addition to the support, or other format requested, provide the following communications in regular print:

a. No alternative format needed.

b. I need a format not listed here. Once a member's request for a non-standard alternative format has been processed, communications shall be provided in the requested alternative format, as well as in standard format. If a member requests that communications be provided in a threshold language, all correspondence shall be translated into the requested language.

c. Support from the MHP provider shall be provided when requested.

B. Linking Non-English-Speaking Members to SMHS

1. All DHS-BHD program locations, will have posted a notice (BHD 162 Notice of Availability) in English and Spanish that members have a right to free language assistance services, including sign language services, and how to access these services. Members with Limited English Proficiency (LEP) are informed of these rights and how to access services using interpreters.

2. A statewide toll-free telephone number (1-800-870-8786) is available 24 hours a day, 7 days a week, with language support in all languages spoken by County members.

    a. For members who are deaf or hearing-impaired, a telephone communication device for the deaf (TTY machine) will be used [TTY: 711].

    b. For SMHS Providers, see Policy 7.2.19, Mental Health Required Informing Materials and Translation of Written Documents, for requirements concerning written document formatting, translation, and threshold languages. For SUD providers see Policy 7.3.14, Substance Use Disorder (SUD) Informing Materials, Language Assistance Taglines, and Member Non-Discrimination Notice, for requirements concerning written document formatting, translation, and threshold languages.

C. Use of Bilingual Staff and Interpreters

1. When there is no clinical staff member who can speak the member's preferred language, it is the policy of DHS-BHD to use county-certified, bilingual staff as interpreters to assist members and staff in Mental Health or SUD provide services for those members who do not speak English or have LEP capability.

2. Whenever possible, and when practical, attempts should be made to use county-certified, bilingual clinical staff for clinical services. This is especially important when providing an initial assessment, discontinuing a 5150 detention, or for evaluating any high-risk situations, including homicide or suicide ideation.

3. Telephone calls: When it has been determined that a caller needs an interpreter, the staff receiving the call should make all efforts to find either a county-certified bilingual staff member in their program with the necessary language skills, or use the DHS-BHD designated language line vendor to request a telephone interpreter for interpretive services (see attached instructions).

4. Face-to-Face interviews: When setting up a face-to-face meeting with a member, it is incumbent upon the staff to ascertain the need for an interpreter and arrange for an interpreter prior to the meeting. This includes members who are deaf/hearing-impaired and need sign-language interpretative services. Staff must allow sufficient time for the meeting to ensure adequate interpretation. Medication services appointments should be extended for additional time to ensure a thorough clinical assessment.

5. If the staff member working with the member does not speak the member's preferred language, they should consult with their Program Manager (PM) about using another county-certified bilingual staff member who does speak

the member's preferred language–either provide the service directly, or to serve as an interpreter.

6. If there is no other county-certified bilingual staff member available within that team, then it is permissible to seek help from DHS-BHD staff from outside of that team. Staff should inform their PM of their need.

7. The PM may contact another PM to request the use of county-certified bilingual staff supervised by this PM. See attachment #4 Bilingual Behavioral Health Staff List.

8. The requesting PM should make a determination as to the level of service needed, and should be as specific as possible regarding:

    a. The acuity of the situation (e.g. emergency vs: urgent vs. regular appointment).

    b. The type of service necessary (clinical vs. administrative).

    c. The nature of the relationship requested (e.g. clinical or administrative).

9. If no county-certified bilingual staff is available to provide interpretive services, then a DHS-BHD designated vendor for interpretive services may be used to assist in providing the service. (see attachment #1 How to Request Interpretation Services with CTS LanguageLink).)

10. If using a contracted vendor, it is advisable to give them as much notice of the meeting as possible.

D. Use of an Interpreter when Conducting a Face-to-Face Interview

1. To request interpretation services, use attachment MHS 117 How to Request Interpretation Services with CTS LanguageLink.

2. Pre-Interview and Interview

    a. Staff should instruct interpreter as to the nature of the meeting prior to the interview. Review topics to be covered and any potentially sensitive topics;

    b. Provide for additional length of session time;

    c. Review seating arrangements. Whenever possible, the interpreter should sit (slightly behind and to the side of the member);

    d. The interpreter should interpret everything spoken by either party;

    e. Staff should instruct the member: "Do not say anything that you do not want to be interpreted";

f. The interpreter should always ask for clarification from the clinician and the member if something is not clear;

g. Pay attention to nonverbal cues and the impact of culture.

3. Post-Interview

a. Review the session to see if there are any areas of concern that were not discussed, or any areas that may still be unclear;

b. Clarify cultural factors, beliefs, behaviors that could influence assessment and diagnosis;

c. Discuss issues that may have been difficult or problematic for the interpreter;

d. Discuss planning for future sessions as appropriate.

E. Documentation and Claiming for Services

1. Documentation of a member's preferred language, if other than English, must be entered in the Initial Assessment and in the individual's Progress Notes. Documentation should also indicate whether the service was provided in a language other than English and, if so, whether an interpreter was used.

a. If an interpreter is used, the Progress Note should include who provided the interpretation, and what language was spoken. If the staff member conducted the session in a different language, the Progress Note should reflect what language was spoken.

b. Documentation that interpreter services were offered to the member and the member's response to the offer, is documented in the Progress Note.

2. A staff member who provides interpretative services may not claim for those services. For example, if a county-certified bilingual staff member provides interpretative services for a member at the request of another staff member, only the requesting staff member is allowed to claim the services provided.

VI. Forms

A. BHD 162 Notice of Availability of Language Assistance Services and Auxiliary Aids and Services.

VII. Attachments

Attachment #1: BHD 117 How to Request Interpretation Services with CTS Language Link (instruction sheet)

Attachment #2: BHD 118 Communique ASL Interpreter Request Form

Attachment #3: Bilingual Behavioral Health Staff List