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General Comment

See attached file(s)

Attachments

LegalAidDC_CommentsonLanguageAccessStandard

Legal Aid Society
OF THE DISTRICT OF COLUMBIA

Legal Aid Society of the District of Columbia

Comments on Language Access Standard

On behalf of the Legal Aid Society of the District of Columbia, I wish to comment on the 10% threshold for translation and oral interpretation of private plan materials in the internal review and appeals contexts. The Legal Aid Society of the District of Columbia was founded in 1932 "to provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better serve their needs." Legal Aid provides assistance in public benefits, housing, family and consumer law matters.

A substantial part of Legal Aid's public benefits practice involves outreach and assistance to Medicare beneficiaries. Each year, we provide counseling and assistance to scores of Medicare beneficiaries regarding their prescription drug benefits. A sizeable number of these individuals are monolingual Spanish speakers who have limited or no English proficiency. Our experience with these individuals shows that limited English proficient (LEP) Medicare beneficiaries often have difficulty accessing their Medicare benefits because of the language barriers they face.

First, plans should be held more accountable for translating vital documents for LEP beneficiaries, not less.

Currently, many Medicare Part D plans fail to provide required translated documents to LEP beneficiaries. Many of our LEP clients have received correspondence in English from their Medicare Part D plans. The content of these letters includes important information such as changes in copayment or premium amounts, formulary changes, explanation of appeal rights, and coverage determinations. Individuals on Medicare often do not become aware that one or more of their drugs will not be covered by their insurance until they are attempting to get the prescription filled at the pharmacy and are so told. Low-income beneficiaries, such as Legal Aid's clients, usually are unable to pay out-of-pocket for the drug and thus are forced to go without their medication. Similarly, many individuals may figure out that their drugs will no longer be covered but will not understand that they can request a coverage determination such as a formulary exception. As a result, they seek alternatives to that medication—alternatives which may not meet their health needs effectively.

Second, oral interpretation services should be provided to all LEP beneficiaries, regardless of their spoken language. Beneficiaries need to be able to call the plans' customer service lines to get critical information about their benefits and coverage.

We suspect that the current failures to provide required language services stem from the plans' failure to collect data about the languages spoken by their beneficiaries in an effective way. Plans need to be held more accountable, not less. The proposed 10% thresholds would be a step backward and would enable plans to limit access to much-needed health care along lines of language and national origin.

Failure to provide information in a person's language can be devastating, resulting in inability to get necessary care or even the loss of coverage altogether. The 10% standard for written translations is far too high. We believe that a more appropriate standard would be "5% of the

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plan's population or 500 persons in plan's service area" for large group plans, and 25% of population for small plans. Furthermore, oral interpretation should be provided in all languages at all times.