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OCR Requires Rhode Island To Provide Translation, Other Services For Limited English, Other Language Impaired Accommodations

Rhode Island Department of Human Services (RIDHS) must change its policies and procedures to improve language access services for clients with limited English proficiency (LEP) under a resolution agreement (Resolution Agreement) with the Department of Health & Human Services Office for Civil Rights (OCR) available for review [here](#). The Resolution Agreement highlights the need for health care providers and others receiving financial assistance or participating in other OCR-regulated programs to provide adequate translation and other mechanisms to provide effective access to services for limited English speaker, hearing impaired, and other language limited populations in light of recent OCR enforcement actions under Title VI of the Civil Rights Act of 1964 (Title VII), the Americans With Disabilities Act (ADA) and other federal discrimination laws.

Under Federal Law, all programs operated by other agencies that receive Federal financial assistance from HHS, are prohibited by Title VI and its implementing regulation from administering their programs in ways that have the effect of delaying or denying services to persons on the basis of their race, color, or national origin.

RIDHS Settlement With OCR

The Resolution Agreement announced by OCR on January 24, 2011 resolves a complaint filed with OCR by the Rhode Island Chapter of the American Civil Liberties Union (RI ACLU). In the complaint, RI ACLU alleged that RIDHS' termination of four Southeast Asian staff interpreters denied meaningful access to programs for eligible LEP clients. While the investigation for the complaint concluded that RIDHS was not in violation of Title VI, OCR reported that its simultaneous review of RIDHS' compliance with existing agreements revealed RIDHS had not adequately implemented improved access to its programs and services for people with LEP.

Under the Resolution Agreement, RIDHS commits to provide people with LEP — those who have a limited ability to read, write, speak, or understand English — improved access to RIDHS programs and services, including access to Medicaid and other social service programs. RIDHS also has agreed to make meaningful efforts to create a robust training program for current and new employees that will educate staff on a provider's duties under Title VI of the Civil Rights Act of 1964.

RIDHS also agreed to improve its policies and procedures for assessing language and translation needs; improve its methods for overseeing the provision of language access services, including complaints; ensure a more comprehensive approach to providing timely language assistance services; conduct outreach to notify LEP clients of the availability of free language assistance; ensure that use of family or friends as interpreters is allowed only where specifically requested by the client and after being informed that RIDHS will provide free language assistance services at no cost; to translate vital program documents; and to establish mandatory staff training on their obligations under Title VI.

Health Care Providers Should Act to Manage Risks as Obama Administration Makes Enhanced Investigation and Enforcement of Federal Discrimination Laws a Priority

The latest to be announced in a series of other similar enforcement actions, the Resolution Agreement reminds health care providers that that OCR requires them to ensure the adequacy of translation services for language and hearing impaired populations and to provide other accommodations reasonably necessary to enable disabled, language impaired or other special populations protected by federal Civil Rights laws to effectively access services.

Under the Obama Administration, OCR and other federal agencies are showing a heightened willingness to investigate and act to enforce disabilities, national origin and other charges of federal discrimination violations by health care providers and others. [Review Obama Administration Civil Rights Enforcement Agenda here](#). While OCR took a series of enforcement actions under the predecessor Bush Administration, this announced renewed emphasis on federal discrimination law enforcement coupled by the series of actions taken by OCR and other federal agencies since January, 2009 reflects that OCR and other agencies are acting on the direction of President Obama to make prevention and redress of disabilities and other discrimination in employment, public services, public accommodations and telecommunications a priority. [Read About Other Recent OCR Federal Discrimination Enforcement Activities Here](#). See also, e.g., recent discrimination policies and enforcement activities by the

[Department of Justice](#), the [Equal Employment Opportunity Commission](#), and the [Department of Housing and Urban Development](#).

Health care providers and others regulated by these federal discrimination laws should consider auditing the adequacy of existing practices, reaffirming their commitment to compliance to workforce members and constituents, retraining workforce and taking other appropriate steps to help prevent illegal discrimination within their organization and to position their organization to respond and defend against potential discrimination investigations or charges.

For More Information Or Assistance

If you need assistance reviewing or responding to these or other health care related risk management, compliance, enforcement or management concerns, the author of this update, attorney Cynthia Marcotte Stamer, may be able to help. Vice President of the North Texas Health Care Compliance Professionals Association, Past Chair of the ABA Health Law Section Managed Care & Insurance Section and the former Board Compliance Chair of the National Kidney Foundation of North Texas, Ms. Stamer has more than 23 years experience advising health industry clients about these and other matters. Ms. Stamer has extensive experience advising and assisting health care providers and other health industry clients to establish and administer compliance and risk management policies and to respond to DEA and other health care industry investigation, enforcement and other compliance, public policy, regulatory, staffing, and other operations and risk management concerns. A popular lecturer and widely published author on health industry concerns, Ms. Stamer continuously advises health industry clients about compliance and internal controls, workforce and medical staff performance, quality, governance, reimbursement, and other risk management and operational matters. Ms. Stamer also publishes and speaks extensively on health and managed care industry regulatory, staffing and human resources, compensation and benefits, technology, public policy, reimbursement and other operations and risk management concerns including a number of programs and publications on OCR Civil Rights rules and enforcement actions. Her insights on these and other related matters appear in the Health Care Compliance Association, Atlantic Information Service, Bureau of National Affairs, World At Work, The Wall Street Journal, Business Insurance, the Dallas Morning News, Modern Health Care, Managed Healthcare, Health Leaders, and a many other national and local publications. You can get more information about her health industry experience [here](#). If you need assistance with these or other compliance concerns, wish to inquire about arranging for compliance audit or training, or need legal representation on other matters please contact Ms. Stamer at (469) 767-8872 or via e-mail [here](#).

Other Recent Developments

If you found this information of interest, you also may be interested in reviewing some of the following recent Updates available online by clicking on the article title:

- [Supreme Court Ruling Medical Resident Stipend Are Wages Highlights Advisability of Compliance Review](#)
- [CMS Physician Compare Tool Gives Patients New Info On Physicians & Other Providers](#)
- [President Signs Long-Sought Red Flag Rule Exemption Into Law](#)
- [Texas Suspension of Doctor, Pharmacy Highlights Pain Management Prescribing Risks](#)
- [Managed Care Executive Quotes Stamer On Implications Of Affordable Care Act Claims & Appeals Rules](#)
- [OIG Shares Key Insights On When Owners, Officers & Managers Face OIG](#)
- [DEA Cautions Practitioners Must Restrict Delegation of Controlled Substance Prescribing Functions, Urges Adoption of Written Policies & Agreements](#)
- [HHS announces new tools and resources from the Affordable Care Act to prevent fraud in Medicare, Medicaid and CHIP](#)
- [Rite Aid Agrees to Pay \\$1 Million to Settle HIPAA Privacy Case As Office of Civil Rights Proposes Tighter HIPAA Privacy & Security Regulations](#)
- [CMS Adopts ESRD Facility Prospective Payment System & Proposes New Quality Incentive Program](#)
- [Revised Joint Commission Medical Staff Bylaw Standard Requires New Collaboration, Other Updates](#)
- [OIG Special Fraud Alert Targets DME Telemarketing](#)
- [Health Care Providers Required to Improve Services for Limited English Speakers, Hearing Impaired as HHS Steps Up Enforcement of Federal Discrimination Laws](#)

If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile at [here](#) or e-mailing this information [here](#). To unsubscribe, e-mail [here](#).